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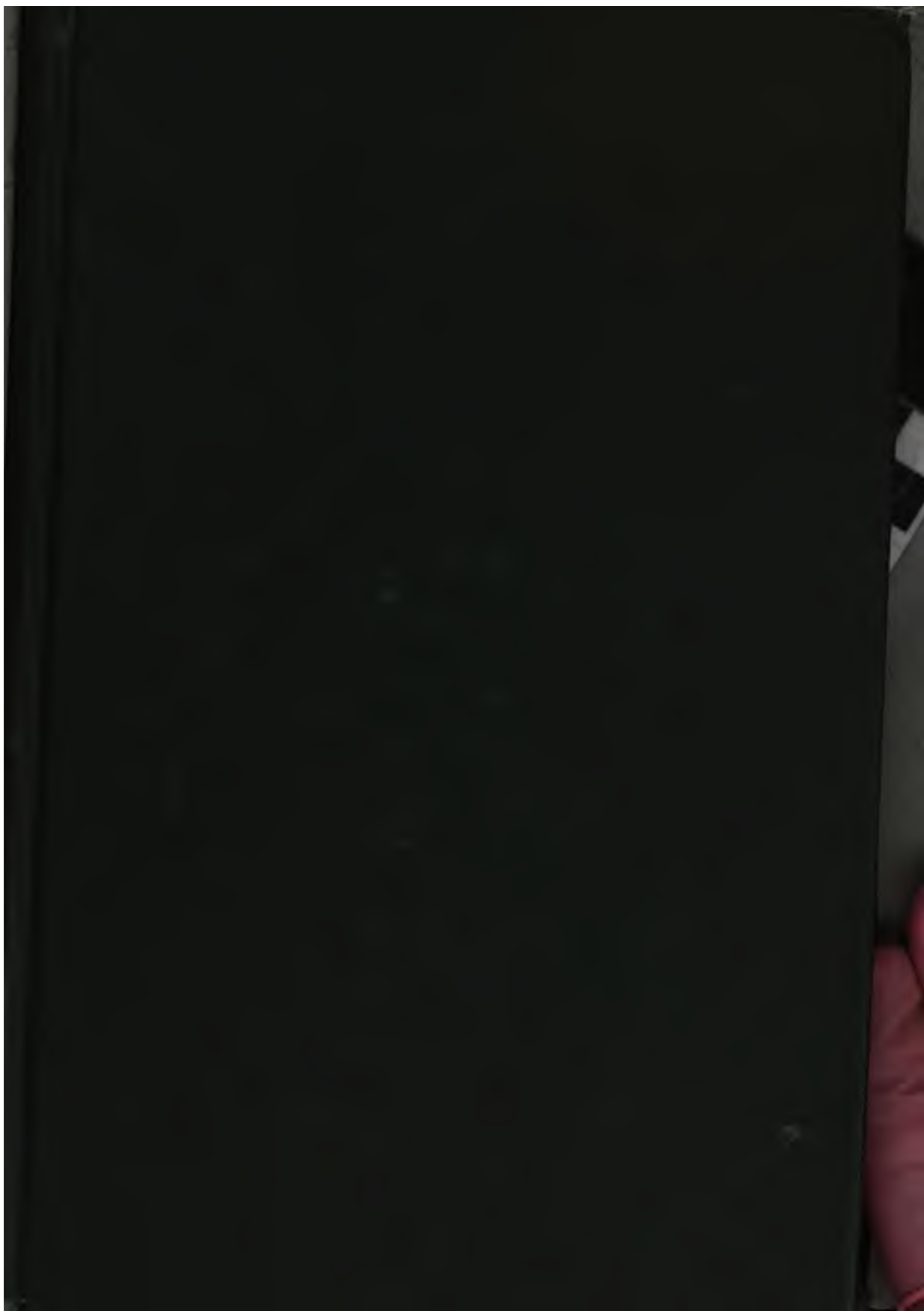
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**The Humanity, Benevolence and
Charity Legislation of the Pentateuch
And the Talmud.**

**In Parallel with the Laws of Hammurabi, the
Doctrines of Egypt, the Roman XII Tables
and Modern Codes; the Sequel of "Spirit
of the Biblical Legislation."**

BY MAURICE FLUEGEL,
BALTIMORE, U. S. A.

Author of Religious Rites—Spirit of Biblical Legislation—Messiah,
Ideals, Vol. I. Jesus of Nazareth—Vol. II. Paul and N.
Testament, Mohammed and Qoran—Zend-Avesta,
Brahmanism and Buddhism—Israel, the Biblical
People—Philosophy, Qabbala and Vedanta,
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TO THE MEMORY OF MY HONORED FRIENDS :

CHARLES L. HALLGARTEN, Frankfort O/M,
and *MORITZ SIMON*, Hannover, Germany ;

Both practical exemplars of the Biblical humanity, benevolence and charity ; both intuitively exhibiting the noblest traits of their race and faith ; the one, a citizen of the old and of the new world, acting in either on a vast scale ; the other a pattern of filial piety and force of character, founder of the Alex. Simon Stiftung, at Ahlen :

With a wreath of love and veneration from the author.

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The Humanity, Benevolence and Charity Legislation of the Pentateuch.

INTRODUCTION.

Weighty, grave and majestic are the words and sentences of the Legislator, introducing his Law-book to the people, on the eve of a great expedition, the conquest of their ancestral land: "Now, O Israel, hearken unto the statutes and ordinances which I teach you to do, that you may live and take hold of the land which *Ihvh* (the Supreme Being), the God of your fathers, giveth you. . . . Observe and perform them, for this is your wisdom and your understanding before the eyes of the nations, . . . who, considering these laws, will say: This is indeed a great and wise people . . . with laws and statutes so just! Take heed and beware not to forget them . . . all thy lifetime, and let thy children and children's children well know them" (V. M., IV., 1-10). "Set your hearts unto all I recommend you! . . . It is no vain thing for you . . . It concerns your life, . . . and by it you shall live long in the land you are going to inherit" (V M., XXXII, 45-47).

Indeed, grand and solemn is the introduction, freighted with the burden and the responsibility of the welfare of a nascent Commonwealth: "Learn and realize the *Thora* (Law), that you may live and own your country."

And this is no poetry; it is stern fact and reality; the Mosaic Laws are the condition, *sine quae non*, of a thriving Society; the symbols and forms thereof are the external vessel, the laws and principles, with their broad humanity and benevolence, justice and truth, are the essence and sinew, intimately bound up with individual and national freedom and welfare. To show this, to prove this, will be the task and scope of these pages. Reader, peruse them in the same spirit of earnestness, charity and justice, and, I believe that you, as I, will coincide with the lawgiver: "Hear, O Israel-mankind, and perform these enactments, that you may live and prosper."

Pondering over these and numerous other similar verses, we find them dictated by the eternal genius of history, by the holy spirit of absolute truth. It purports that the strength of Israel is in his law. The nations wonder at his many apparent peculiarities, at his very existence in spite of a thousand obstacles. He is quantitatively so puny, qualitatively so potent and influential; scattered and broken into fragments, without territory, armies or leaders, prejudiced and downtrodden; still enduring, elastic, undismayed, wielding a powerful influence on the march of civilization; and this, not by the Bismarckian policy of powder and lead, or the Roman polity of *divide et impera*, but by his mind, his national psyche, his energy, his indomitable self-control, by the great humanitarian scope of his labors, his science, arts and industry; by the factors of peace and civilization. What, then, is the secret of that strength and endurance? These pages will reveal it. That puny people's great weight lies in his laws; it lies in his Pentateuchal pact, combined of doctrine, custom, morality and law, justice tempered with sympathy. Scan the pages of universal history, everywhere you find force and astuteness. Israel's covenant breathes with justice and solidarity. The ancient Babylonians, Assyrians, Persians, Egyptians, Greeks, Phœnicians, Romans, all cultivated force, war and cunning. Israel fostered as his highest national ideal, law, justice, equity, wisdom. This legislation is his strength, the secret of his outliving all the conquering races; for, indeed, apparently force and cunning domineer; really the rational, divine law of justice and fitness rules, permanently behind the screen of eternity. As the pendulum is swinging to the right and the left, still ever returning to its normal central gravitation point, even such is human nature; its equilibrium is justice and sympathy; to that it invariably comes back as its normal center—that is, properly, Civilization. Such is the Mosaic legislation we are studying here. Human passions, prejudices and selfishness carry us away, to and fro, yet the gravitation point is normal and fixed; such is the legislation of the Pentateuch.

Carefully studying their letter and spirit, with their scope and object in view, we shall recognize that they are not bound up

with country, nationality and time. No! They are universal and eternal, destined for the rational and moral human species of all ages and environments, absolute, unconditional and unsectarian, flowing from the eternal and immutable Source of Divine justice and wisdom, fitness and goodness; of stern right, tempered with mercy; built on the principles of altruism and egoism, wisely blended in best proportions; with the aim of raising a model community, basing on equity, freedom and equality, on sympathy and solidarity, on morality, education, work and purity; a State, a people and a religion or Church, all hewn from one block, all one and the same subject from different viewpoints, with the One God in Spirit, as the only king, and law (the *Thora*) as the only judge and master. We shall find these Mosaic enactments to be one compact, vigorous, logical body of Laws, not a legal mosaic of different origins. We shall recognize its Benevolence to be mere social justice, not pitiful almsgiving; its charity and solidarity to stand upon the firm rock of eternal right and wisdom, and all together as the elements of a legislation, a social polity for entire future mankind, with Israel as its temporary nucleus and champion.

While assiduously busy with this peaceful and grateful task of showing the vast humanitarian scope and tendency of the Mosaic legislation, we hear from beyond the Atlantic the vociferations of blind fanaticism and cruel bigotry, mingled with the shrieks and tears of helpless humanity, trampled under tyrant's foot, and this in the desecrated name of the God of Justice and Mercy, in the name of religion and nationality, instituted to unify and pacify mankind. May this volume be the protest of civilization against such stupidities and atrocities. "Alas,¹ once it was dark, and innocence died; now it is apparently brighter—still innocence bleeds." These pages will show that the Bible teaches justice and benevolence to *all*, no race-prejudice and no creed-hatred; that all the peoples are brothers and all nationalities sisters; that peace and good will should reign in the sacred name of God and religion.

¹"Rousseau's Grave," by Schiller.

My latest volume, "Philosophy I." was issued in 1902. There I promised to publish at once its second volume. But that never-ceasing din, that horrible shout of inter-racial warfare and murder coming from unhappy Russia and Roumania stunned my heart and lamed my pen. Philosophy, humanity and religion stand aghast at the aspect of such folly and cruelty. So I postponed that volume. Instead, kind Reader, I offer you this Biblical Legislation on Humanity, Charity and Benevolence. Behold here the vast ocean of justice, love and forbearance to all, indiscriminately; and if any fanatic foments *pogroms* in the name of God and the Bible, tell him he is a fool and a liar!

May I utilize this occasion to tender thanks to my subscribers and readers in the New and in the Old World, for having followed me thus far and encouraged my publications. I hope and request that they may kindly continue so to the end of this entire series. They will find that all these volumes already published, as those yet to be published, are one continuous series of studies on the moral sciences, the leading themes of history, sociology, Law, Bible, religion. They have all one practical object in view: To show that the Bible essentially teaches the *Religion of Mankind*; that the Bible and religion, in substance, are in harmony with the sciences and with humanity; that Israel and his main doctrines are not in antagonism, but in full and complete accord with man's highest civilization, and noblest endeavors; that he is thus but mankind's advance guard, continuing the aspirations of the prophets, upholding the ethical and social platform of the civilized races; that he and his teachers and exponents have for these three thousand years ever deprecated warfare, egoism and over-reaching, and have ever advocated universal peace and justice, work, education and well-being for all.

In conclusion, let me utter my warm thanks to the honored friends who have encouraged me and my labors by word and by deed. Among these I venture to mention Messrs. Eduard Cohen, Charles L. Hallgarten and Henry Seligman, of Frankfurt-on-Main; the (late) American Consul, Alexander Simon, of Hannover; the Honorable Jacob H. Schiff, of New York; the (late) William S. Rayner, Mendes Cohen, and Joseph Frieden-

wald, of Baltimore; the brothers, Isaac W. and Bernard Bernheim, Louisville, Ky., and Edwin Wolf, of Philadelphia. The honorable consciousness of having encouraged the writer and substantially assisted in the publication of this series of useful works will be their well-merited reward. For this series will be the literary monument erected to the memory of the first generation of Jewish-American settlers, showing to future generations that Israel is still the custodian of the Bible, the people of the *Book*.

THE PRESENT VOLUME.

It was in the year 1893 when my volume, denominated "Spirit of the Biblical Legislation," treating of the Civil, Political and Agrarian Mosaic Laws, was published. Many years have passed since, during which time I had ample opportunity to learn the kind and favorable opinion of leading scholars and of numerous educated readers at large, both here and in Europe. Their judgment is decidedly favorable to my modest work, and that encouraged me to continue these studies in two further volumes of the series on the Biblical Legislation; viz, "The Exodus, Moses, and the Decalogue," is to be the first; the fore-mentioned tome, "Biblical Legislation," may be considered as the second; and this present labor is the third. Then, years ago, I treated chiefly of the civil, political, social and agrarian laws of the Pentateuch. Here are discussed the institutions and ordinances on benevolence and charity, solidarity and humanity of Mosaism. Quite another set of laws than these, viz, the Ten Commandments, are to be discussed in the first volume. This treatise is therefore to be considered as the closing volume of the series of "Spirit of Biblical Legislation," published in 1893, whilst "Exodus, Moses and the Decalogue," will be published next, to form the firm of the trilogy.

And whilst the subject-matter, the chapters, verses and the institutions are totally different in this volume from the preceding one, still the method, scope and spirit are identical, here as there. As there, so I may say here, that: "I do not presume to convey the idea of offering here a full tableau and a complete

discussion of all the Biblical institutions of a universal and benevolent character, but solely at elucidating their spirit, the principles animating and pervading them, their starting point, and their final object." Here we shall search for and point out the objects and aims of the legislator in framing his statutes. Here, as in the treatise first published, we shall find that many sections belong to circumstances and ages gone by; others have a present, realistic, live interest; whilst again, many others are still ideal, not reached, even now, thousands of years after their promulgation; that though realistic and practical, yet now practicable, they are still an ideal, a *pium desideratum*, still postulating environments, with individual and social wisdom, not yet reached at the beginning of this twentieth century. Of all these statutes, be they already consigned to the past or available for the present, or ideal *shemata* for the future, this volume will attempt, modestly but fearlessly, to unravel the knot and elucidate the final objects in view, ethical, social and political.

The themes and verses analyzed in these pages are selected from among those commonly termed the Book of the Covenant,¹ viz, II M., 21. to 25. chapters, and next from V M., 20.26., those subjects which have a charitable, benevolent and humanitarian scope, and are exemplifications of the great principle of human, social solidarity. We have paid here particular attention to the Talmudical expoundings and enactments, and have often added a close translation, a verbatim epitome, of the corresponding Rabbinical laws, frequently also in parallel with other ancient and modern codes and views.

But our times of bold investigation, research and criticism, the new discoveries in Egypt, Assyria and Babylonia, in hieroglyphic and cuneiform inscriptions, excavated during the latest generations and even in recent years, have induced me to pay more attention than years ago to the parallels, the contrasts, the similarities and the opposites, which certain scholars believe to have found out between the Pentateuch and these newly discovered ancient records. Some of these critics and decipherers

¹Sepher-Ha-Brith (II M., 24-7.)

went so far as to declare that even the leading institutions, ideas and doctrines, those hitherto believed most peculiar to Mosaism, to have been borrowed and copied from the regions of the Nile and the Euphrates. We have therefore offered here large epitomes from the Egyptological and Babylonian excavations, with some of their principal laws and doctrines. So we have here reproduced the more important part of the now famous Hammurabi Code, recently so much talked about and discussed, in juxtaposition with the corresponding verses and enactments of the Mosaic Legislation. And we believe that these pages will evidently show that, though, no doubt, the countries, old and civilized long before Judæa, had elaborated religious doctrines, divine worship, and especially Codes determining civic right and wrong; and though these previous codes may be the background and forerunners of the Mosaic legislation, nevertheless this Mosaic legislation is neither borrowed, nor even on a level with Babylonia, Egypt or Phœnicia, but that it occupies much higher ground, starts from nobler standpoints, has a vaster, cosmopolitan horizon, breathes a purer atmosphere, and has a diviner scope and a higher social object of view. I believe these pages will prove that, though the pre-historic civilizations of Western Asia and of North Africa are the underground upon which later Judæa and the Pentateuch rest, still the Mosaic Code(standing upon the shoulders of Babylonia, Egypt and Phœnicia, is an infinitely higher developed creation, a genuine composition and fresh legislation, looking farther, deeper and higher than its predecessors; hence it is original, independent and far from being a copy and imitation. It is in its principles, motives and final aims the grandest, divinest legislation of antiquity. The volume will point out that monotheism, with its humanitarian Decalogue, its man, right, purity and holiness-ideas, those of freedom, justice, equality, democracy and the subsequent laws framed upon such new, Mosaic principles, are original and peculiar to the Pentateuch and the Bible exclusively.

THIS VOLUME.

Thus the theme of this treatise is: The Mosaic Laws on humanity, charity and benevolence, born of the principles of Monotheism and universal solidarity, national as well as international, humanitarian. By far the major part of it is devoted to the discussion of hundreds of the sacred verses and themes of private and public interests and benefactions bearing on these issues; in comparison with other charity laws and other codes of ancient, mediæval and modern times, down to the workings, the success and failings of our own host of United-States benevolence institutions. Whilst the minor part of this volume is devoted to succinct epitomes and close discussions of the new finds and discoveries in Egypt, and especially in Babylonia, the Code of Hammurabi and the XII Tables of Rome, in close contrast and parallelism with the laws and doctrines of Mosaism. The volume, again, contains the refutation of the charge that the Bible is devoid of the principles of mercy, of sympathy and of benevolence. It shows that the altruistic, or love-idea, of the New Testament is simply a reflex from the Old Testament, applied to its own ideal schemes. It shows further that the several new agnostic claims at "Perfect Ethics," or those of communistic patterns, are chimeric and utopian, not able to outstrip the far-reaching, realistic tendencies of the Pentateuch. Finally, it shows that the Biblical Laws and doctrines are not borrowed and copied from either Egypt, Canaan or Babylonia, but that they by far excel and transcend all such crude attempts, be they theological, moral or legal, of ancient Egypt, Assyria and Babylonia; that Mosaism is the highest development of all those unripe trials on the Nile and the Euphrates, originally and independently elaborated in Judæa.

As the first volume, so this second one, logically and necessarily results in this conclusion, viz, the Bible, as extant in our Massoretic text, is no crude conglomeration of heterogeneous treatises, of different ages and phases. No! It is a well-digested whole; an elaborate system of institutions, doctrines and laws for an ever-developing, homogeneous people, gradually to unfold as a vast Israel-mankind, ever working, progressing and

advancing the human race, under struggle and error, towards the ideal of "a kingdom of priests and a holy nation;" with the later agadic "Kingdom of Heaven." It represents the highest ideas on God, universe, man, woman, State, right and duty, freedom and labor. The aspirations of our present democracy to unify mankind in a world-vast United States, the hopes of our modern economists, moralists and philanthropists are identically the same as those held up in the legal and the benevolent parts of the Mosaic Code; not as in the previous Code of Hammurabi, or the priestly philosophems of India, Babylonia and Egypt. Hence the claim of certain sensational Assyriologists to teach the One God, right and state idea, in the name of Babylon, instead of Sinai and Moriah, is untenable and preposterous. A careful, unbiased comparison will evidently prove it.

I conclude this introduction with the following remarks which I had the honor to address in a letter to the American Oriental Society, holding here, some years ago, their convention at the Johns Hopkins University, viz:

"The daily Press is teeming with news, greatly alarming the consciences and feelings of believing people; that new discoveries by excavations have been made on the Nile and the Euphrates, tending to show that even the leading features and teachings of the Pentateuch have been borrowed from these sources, and especially from Hammurabi's Code. In the interest of science and truth, allow me to contradict these rumors and to say: There is very, very little resemblance between Hammurabi's Stela and the Mosaic Laws. Indeed, there is between them no more resemblance than between a low stage of society and the highest civilization. The laws and doctrines of Manu, Confucius, Zarathustra or Pharoah Khu-n-Aten certainly contain in rudiment many views and enactments which are found also in the Pentateuch; but we meet them here in an infinitely higher stage of development, fully elaborated, logically systematized, and from a new standpoint, viz, that of ethical Monotheism, with justice, truth and morality, purity and holiness, as the will of the One God in spirit (Exod. 20 and Levit. 19 ch.).

It is true that in China, India, Babylonia, Canaan, Phœnicia and Egypt we find scattered rays and single elements of such teachings and views, but they are there, isolated, incoherent, amidst a heap of rubbish and myth, of priestcraft, king-craft and superstition. In Moses, the Prophets, the Psalms etc., these elements are compact, homogeneous, carefully sifted, purified from mythic dross, elaborated and harmonized into a logical, concrete system, a live-Code, a religious, moral and social legislation, a national organic Law, to become the cornerstone for the erection of a new State-pattern, an ethical guide and everlasting Rule of Conduct, for an incipient people, with the ostensible intent and the avowed purpose of gradually to expand and become the law of civilized mankind.

Now this grand and divine aspiration history shows to be slowly realizing itself, in the West, through Christianity, and in the East through Mohammedanism; both reacting upon India, China and the entire globe. Hence, Monotheism, God-holy and perfect, and man to be holy and moral, in a society free and equal, and as happy as man is capable to be, that is the object of the Biblical State. That organic Law, with such a program and aspiration, that is original to the Bible; that platform has been first put forward in the Pentateuch by the Hebraic Prophets, and continued by their successors, West and East. Of that the Laws of Hammurabi have no trace and no idea, nor Babylonia, nor Egypt. What they may contain is, no more and no less, than what the barbarian may have in common with the civilized man, the root with the fruit. There is no wisdom and no utility whatsoever in trying to shift the center of civilization, and substitute a recently discovered inscription, doctrine or Code, to the Bible. '*What is, is good,*' correctly argued J. J. Rousseau. That the prophetic Scriptures have in the course of 3,000 years gradually become the ethical guide of civilized man, whilst other codes and doctrines have been shelved and buried, that conclusively shows the critically and correctly understood Bible to be the highest development of human aspirations; and this highest development is di-

vine inspiration; this constitutes it as the Word of God; to cavil against it is not liberalism, but sensationalism or anti-Semitism. Mankind will not profit or improve by substituting the Babylonian Mountain-house of Bel-Merodach for the venerable Mount-Moriah of Iahv.

MAURICE FLUEGEL.

BALTIMORE, U. S. A., *April*, 1908.

CHAPTER I.

The Humanity and Charity Laws of the Pentateuch.

THE PENTATEUCH, ITS SPIRIT AND ITS DETRACTORS.

Many and various are the detractors and cavilers of the letter and the spirit of Mosaism and the Bible. Such opponents hail from divers epochs and quarters; from other sects and periods; from infidels, agnostics and hypercritics; from olden times, modern times and present times. In ages gone by, one often heard the claim boldly advanced that the Bible, the Mosaic Pentateuch especially, is but Law, the expression of severe justice, the fine feeling and accurate balance of mine and thine; that its God is a "jealous and revengeful one, who visits the guilt of the fathers upon the children to the third and fourth generation;" that its code are the rigorous chapters 21-24th of section, Judgments, "*Mishpatim*," basing upon the axiomatic formula, "*Eye for eye, tooth for tooth, hand for hand, and foot for foot*," and this draconic *lex talionis*, the principle of retaliation, of revenge, is its pivot; but that with the New Testament era, such parties used to argue, has dawned a higher religion; there a nobler law and a diviner principle have opened upon mankind, viz, that of love and sympathy, of spontaneous, altruistic goodness, of love disinterested; a deep, sweet, humane instinct that prompts man to do, not only what is even, exact, just and right, but what is noble, generous and ideal; to do what we should like to be done to us by others, by some genius or fairy from fairyland; that higher religion of divinized humanity, charity, and love, that creed teaching not only: "*Thou shalt love thy neighbor as thyself*," but more: "*Thou shalt love thy enemy as thyself*,"—that higher religious phase is not taught by Mosaism; for that a new revelation was necessary, which constitutes man not only as a rational being, but a benevolent and sympathetic one; for that

a new covenant, a new religious dispensation had to appear upon man's ethical horizon, and that is Christianity.

So people used to argue since the times of Paul to that of Lavater, Herder and Schleiermacher, occasionally even now. But that phase of sectarian, one-sided reasoning appears to be passing away. In our own generation we are hearing¹ rather another strain of argument. Persons depreciating and deprecating alike, the Hebraic Bible and the Gospel and all positive religions and creeds, declare that: Neither the Prophets nor the Apostles, neither the Old Testament, nor the New one, nor any positive creed is humanitarian. They are neither inspired with, nor heartily advocating the principles of "perfect ethics" and broad humanity. And such parties² base upon this "their right, yea, their duty," to secede from the established religions. They pretend that any and all positive religious systems are permeated with selfishness and bigotry; that all of them teach love for their own adherents, hate, prejudice and persecution for all others, sectarians or independents. True humanity, universal benevolence—they say—are taught only by non-sectarians, by Voltaire, by Swedenborg, by Auguste Comte, by Heckel. Only free-thinkers, non-sectarians, are broadly humanitarian. Therefore, as long as any positive religion will continue, the true "Kingdom of Heaven," with peace and good will to all men, will not dawn upon earth. For that, a brand-new doctrine must be inaugurated; a doctrine that emphatically declines any and all religious connections; that stands and insists alone upon ethics and nothing else. Just these our own times are the boldest in such pretentious assumptions. They teem with revelations that are neither religious nor scientific; revelations made by prophets claiming to speak, not in the name of God, but of late discoveries. The credo of Mohammed reads: "There is but one God, and I am his prophet"—our latter-day's prophets shout, louder than the founder of Islam: There is no God; still we are

¹Professor Friedrich Delitzsch's "Babel and Bible," 1902, Leipzig; introduction.

²Felix Adler's lectures: "Right of Secession in Religion," 1903, New York.

His prophets! Within the dawn of this new century has been discovered in the Orient a Stela with a cuneiform text, containing an interesting Code of laws purporting to derive from Hammurabi, King of Babylon in about 2250 B. C., a Canaanitish Conqueror and founder of a dynasty of Western Asia. From this Code of Hammurabi, it is stoutly and boldly claimed, the best part of our religion is derived, nay borrowed, copied, plagiarized; the Mosaic Code, its Institutions, yea, its monotheism, the Decalogue, the worship, the Sabbath, etc., of the Pentateuch and the Bible, hail from there. Prof. Fridr. Delitzsch ("Babel and Bible," 1902, Leipzig) states that: "Mankind needs a form to teach the God-idea; this form has been hitherto the Old Testament. This will change considerably as the result of researches, inscriptions and excavations." This I shall prove is absolutely incorrect. The excavations by no means bear out such a claim. It is the boldest piece of Anti-Semitism brought forward for a long time. In this treatise the reader will find a careful and exact verbatim epitome of the Hammurabi Code, whereby he will judge that the claim on the Pentateuch to yield its place to Babylon, that its best contents are borrowed and copied from the cuneiform Stela, is wholly unwarranted and monstrously exaggerated, a molehill turned into a mountain; that all we may find there is a shrewd Canaanitish legislator, enacting laws for Canaanitish-Babylonian, heterogenous populations, swayed by a hundred gods, goddesses, dæmons, witchcraft, priestcraft, Kingcraft, classes and masses; despotism and bitter national jealousies—laws aiming at perpetuating the grasp of the dominant party over the subjugated one. The reader will find that the Biblical God-belief and monotheism, that the man and world, right and duty-ideas, the Decalogue, with its Sabbath-rest and sanctification, its Code of justice tempered with sympathy, its liberty, equality and democracy, its principles of solidarity and reciprocity, its benevolence and charity laws, its Release and Jubilee Cycles, with the inalienable family-acre, etc., aiming at averting pauperism, plutocracy and despotism, that the entire *Mosaic* Code, indeed, is original, genuine and independently enacted upon new principles evolved

in Judea, often diametrically opposed to the Babylonian Code. Whilst the few and rare similarities are fully explained by the proximity of time, territory and populations.

THE PENTATEUCH ; ITS BENEVOLENCE AND CHARITY.

I do not pretend that these pages and their studies will succeed in showing and pointing out when the dreamed-of "kingdom of heaven" will dawn upon our human horizon. But I shall attempt to show here to every unbiased person that the above charges against all positive religions and against Mosaism in particular, are entirely and thoroughly unwarranted. Indeed, as the world-space is filled with air and light, and as the ocean is replete with water and life, even so are the laws of the Pentateuch permeated by the principles of genuine love and true humanitarian benevolence; to such an extent that even its general rules and laws of right and justice are borne up on the ethereal wings of humanity and solidarity to and for all; all nationalities, races, speeches, sects and countries; to non-believers and foreigners; yea, even to the brute. Elsewhere we have attempted to vindicate this sympathetic trait also to other great historical teachers of religion, showing that Great lawgivers are deeply penetrated with the ardent and sincere desire to serve their fellow-men. As to Moses we shall prove here that in framing his national, particular, Judaic laws, he aimed at universal improvement and happiness, and that the spirit of sectarianism, bigotry and tribal selfishness never emanated from his great and warm heart. Leading ethical teachers are universal and humanitarian. And when we find peculiar sectarian enactments savoring apparently of popular invidiousness and discrimination, such do not originally belong to the lawgiver proper, but to his successors and to the altered environments and imperious, new national interests and emergencies. Such crept in later, as an afterthought, as the necessary alloy added by the cunning smith in order to harden his gold. Such egoism intended to render their stiff system malleable and durable for the use of actual human society, varying with each historic phase.

GREAT TEACHERS.

Indeed, when we read about Moses giving up his rank as a grandee at Pharaoh's court and becoming a Bedawin Shepherd; when 40 years later we see him leaving his family, his home, his flocks and his mounts for his new, hazardous scheme of liberation, boldly devoting himself to the rescue of an enslaved race that had but a scant claim upon his self-sacrificing tenderness; when we read of Buddha, who renounced the voluptuous and easy rank and position of an Indian dynast, braved the obloquy of the mob, the taunts and curses of the Brahmans and the frowns of his peers, with all the hardships of exile, poverty, misconstruction, and consecrated his life to the emancipation of the pariah races of India; when we read of Elias, Isaiah and of Jeremiah, or later of the Gallilean preachers, confronting king and noble, priest, people and soldier, boldly unmasking the reigning powers and throwing their vices into their bared faces, at the imminent risk of torture and death—who would have the boldness to deny to them the very substance of sympathy and altruism, as being the primary source and motive-power of their self-sacrificing efforts! So a Midrashic tale quaintly narrates that Moses, tending his flocks near Sinai and perceiving a little lamb left far behind, exposed to the rays of an Arabic sun, went in quest of it and brought it in his arms back to its bleating mother. The heavenly Father, seeing it, said: "Thou, Moses, hast shown so much sympathy with a poor lamb, thou wilt be the proper shepherd for my flock, Israel, the oppressed of Pharaoh." This legend gives the clue to the character of nearly all the historic Prophets and Lawgivers. Their first characteristic is boundless love, sympathy with human misery, the vast and ardent desire of benefiting the masses, those very masses by whom they usually were and are persecuted and stoned, they calmly praying: "Pardon them, Father, they know not what they are doing." To refuse to these providential men the essence of love and sympathy is the height of prejudice and frivolity. Let us now look at the benevolent spirit of the Mosaic legislation, at its principles of humanity and charity.

CHARACTERISTICS OF MOSAIC BENEVOLENCE.

Closely examining and sifting the different and numerous scattered chapters and passages of the Pentateuch on legislation, and especially those often misunderstood, of II M., 21-24, we shall gradually realize the leading ideas and objects of the Law-giver on the sympathetic principles in human nature. There we find his enactments bearing upon men's relations towards each other; man, wife, child and kindred; the poor, the Levite, the sick, the distressed, the unfortunate, the forlorn (non-Jewish) stranger, the widow, the orphan, the guilty, even the dumb brute; in one word, towards our fellow-men and fellow-beings who are in need of our pity, our sympathy and our assistance in one way or another.

These Biblical views on altruism, humanity and charity distinguish themselves greatly from other legislations on the same subjects in the following respects, viz:

I. They are all realistic, possible, enacted for man, man as he is, not as he might be, not for angels ever overflowing with and moved by sympathy, as assumed sometimes by Buddhistic, Christian and Socialistic Teachers, but for earthly beings in whom egoism is the mainspring of action. Here the Mosaic legislator, as also political economy shows, makes an effort to prove to man that his own interests require him to be just and equitable, and this kindness is, furthermore, measured by the cubit of his own size, not by that of some supernatural being. He asks of him to give to the poor a fraction of his crops, not the whole; to pardon him who wronged him, not to love him, which is impossible, wrong never being the cause and seed of love; not to bear any secret grudge, but to openly expostulate and insist upon reparation; to love his neighbor and fellow-citizen, not his enemy; to bring the offender to justice, not to offer him his cheek to smite, or his cloak to take when he had stolen his coat. No! the thief must give restitution and a fine besides, but his life is to be spared. War is a sad fact of history and is even legitimate in defense. The vanquished enemy and soldier shall pay tribute, but must be spared. The slave is to serve, but when

abused he shall go out free; when he is admitted into the Hebraic nationality he becomes a free citizen. These laws are supplemented by those in V M., 20-25. The captive woman is a slave, not a harlot; if loved, she may become the wife of the master; to abuse her is unlawful; her feelings are to be respected and her children are legitimate, and the very marriage renders her free. When disliked, she can be sent home, never sold away as a slave. It will happen that a man will loathe his captive-wife; the Agadists even predict it as probable; but her legal, wifely status remains unaffected, for feelings of affection cannot be commanded, but positive rights can. A father may naturally prefer the son of the loved wife to the son of the hated woman, but he shall not alter the positive right of primogeniture, he cannot change the right of succession. This the lawgiver positively forbids; and unfair preference he expressly and impliedly deprecates (in the story of Joseph's adventures). If a half-witted son be criminal, then the judge, not the angry parent, shall punish him. The condemned criminal shall expiate his crime, but after expiation he shall be decently buried; he is and remains a brother and fellow-man. These and many hundreds of similar verses of the Pentateuch, as we shall later discuss, will abundantly prove the Mosaic laws to be not merely just, but sympathetic and humanitarian as well, as realistic and possible, ordained to improve men, not for Utopian purposes.

The Biblical principles of Charity and Humanity are furthermore:

II. *Positive Laws*: They are commanded, they confer a duty and a right. They are not simply an ideal recommendation or a moral duty, a homiletic generality, a banality, a *pium desideratum*, accepted or refused at will; but a peremptory bidding of God, the Supreme authority and king of the State. So we read: "When thou lendest money, or sellest goods, thou shalt take no interest or profit upon them. Thou shalt not overreach the (non-Israelite) stranger, for strangers ye were in Egypt. Ye shall not afflict the widow or the orphan, for I, God, shall listen to their cry and avenge their wrongs upon the wrongdoers and make their own wives widows, and their children orphans.

When thou pawnest thy neighbor's garment, return it to him even before sunset, for he may cry to God, who will listen to him. Be no tale-bearer, nor participant in a 'ring,' or clique, or side with the mob for bad; nor run headlong after the majority. Have pity upon thy enemy's beast or other property. Do not alter his right in litigation. Every seventh year let the produce of thy field go to thy poor, thy stranger, and thy beast, for their sustenance. Every seventh day in the week allow as a Rest-day to thy beast of burden, thy servant and thy stranger, that they may recuperate from their toils." All these beautiful verses on humanity and charity are enacted in one single chapter, the one just following the 21st chapter of Exodus, that with the much misunderstood and misconstrued verses on *lex Tali-onis*: "Eye for eye and tooth for tooth." The law declares the corners of the field-harvest, the forgotten sheaves, the gleanings and the top of the fruit-trees, free to the poor; two of each hundred of the produce go to the sanctuary and its servants; ten of each hundred to the Levites, the teachers, the judges, magistrates and police of the State; and, further ten of each hundred go to the poor. And all that is not an ideal, not preached as almsgiving and charity, but it is a positive law, a divine ordinance, insisted upon and levied by the combined authority of God and the State, just as the Commandment of "Thou shalt not steal, or kill, or testify falsely." It is an express condition of the tenure of the soil. It is communism, but the terms on which God, the feudal Lord, conferred his land on the citizens.

III. The next characteristic feature of the Mosaic Humanity and Charity Laws, and the very ground of their realism and positivism, is: Solidarity. The Biblical people, society and State are based upon the principle of mutual responsibility, "One for all and all for one;" each has an interest in and is in some way responsible for, the welfare of his neighbors; no one can be really happy by and for himself; solitary happiness is brutish, not humane; man is a social being; he works for and enjoys by and with his fellows; his motive to effort is self, but it redounds to the good of all; he may work and toil by himself,

he cannot humanely enjoy alone. "Thou shalt rejoice on thy festivals," says the Lawgiver; "thyself and thy family, thy poor, etc." Man is a gregarious, sociable being, happy only with and by his fellows; to enjoy alone, as the miser does his money, as Harpagon of fiction enjoys his table, his diamonds and his rich, warm mansion, looking down from his gorgeous bay-window upon the hungry poor wading kneedeep in the cold mire outdoors—that is abominated by the God of the Bible. That Mosaic solidarity and that charity were soon, after the redaction of the Canon, elaborated and worked out by the rabbinical Teachers into separate tracts (see further on that), basing on a positive, leading, paramount principle, viz: "All the Israelites are responsible for one another" (Abboth). And that becomes the foremost social feature and the grandest maxim of the Judaic society.¹

ENGLAND'S POOR-LAWS, HUXLEY AND THE BIBLE.

Let us quote the English Poor-Laws in illustration of our theme. Ever is the tendency of poor-laws towards perpetuating misery, pauperism, a pariah class. As England is the oldest of modern states, granting liberty and equality, at least before the law, to all its citizens, even so it is the oldest modern community with laws providing for the destitute. Already in the time of Queen Elizabeth, in 1563, the British Statutes made provision for the poor, apparently, not really taking their inspiration from the sacred chapters we are discussing. The State, the shires, the towns, paid taxes towards that. Corporations and private Societies contributed to that. Dwelling houses, homes for the aged, hospitals for the sick, asylums for the minors, workhouses and poor-colonies were established. Fuel, medicine, etc., were provided for the needy and the sick. And since that time such taxes and institutions increased greatly. Withal is English pauperism apparently among the most appalling in Christendom! Because and for the reason that almsgiving is no panacea or assistance. It does more harm than good. It feeds and nurtures pauperism rather than the poor.

¹Abboth. כל ישראל ערבים זה זה בזה

Joseph Garnier (Paris, 1858, "Elements de Finances, page 455) writes on our topic: "This system of legal charity dates back previous to the (Protestant) Reform of the 16th Century. Protestantism, too, admitted charity as a social duty, by the famous act of the 43rd year of the reign of Elizabeth, analyzed by Malthus. Prevost makes such a statute reach up to 1563. But already in the 14th century, under Edward III, a statute made such provision for working men. Apparently the ancient laws contained such prescriptions, and then, with the suppression of the convents after the Reformation, many mendicants and needy ones remained at the charge of society. That act put the support of the poor on the shoulders of the vestry, under the supervision of overseers appointed by the notables. From that moment charity became no longer a voluntary contribution, a religious duty, but a legal obligation. They gave no charity, but paid a tax. With that impost, the overseers distributed assistance at home to the indigents unable to work; to healthy poor they gave work in workshops, kept up by the parish, since called workhouses.

An assessment (*cadastre*) on the lands, enacted at the same time as the old laws, contained many anomalies and difficulties concerning the repartition of this poor-tax. Many estates paid none, not having been appropriated at the time of the *cadastre*. Others paid in diverse proportions to their income or their cultivation.

"Innumerable discussions arose between the poor and the parishes, and among the parishes themselves, concerning the domicile, to such a degree that the lawyers and officers of justice, absorbed an important part of the tax. Such a law-suit, about a single pauper, often cost more than the support of all the other poor together. One reads in the Quarterly Review of the Tri-Mestrial Assizes that the court had dealt with 4,700 appeals in cases of indigents in a single year. Fifty families of the city had to sell their furniture in order to pay their poor-taxes. To enumerate the cruelties, the scandals, and the malpractices of different sorts would take too much space. In 1833 an inquiry

was made which has thrown much light on the question of legal charity, which all more than confirmed the assertions of Malthus (concerning the inadvisability of enforced charity). It was proven that the poor hastened to marry in order to receive a double stipend. Once married, or even before, they zealously got children so as to obtain still higher pay. There were women with children of different fathers. Such legal succor brought on demoralization, loosened the family ties, increased mendicity and mendacity, with an excess of doubtful population, lowered wages and induced many other economic inconveniences. The later suppression of such abuses brought an increase of wages.

“The English poor-law amendment act of 1834 abolished its fundamental principle of the primitive law. Society still regards it as a duty to assist extreme misery, but not unconditionally. Bread and clothes are furnished, but only in the workhouse. There are no outdoor distributions in money or otherwise to supplement insufficient salary, no alms and no charity. Society opens only an asylum, without liberty to unfortunates incapable of working, to children, seniles and invalids. It offers only a modest support in exchange for serious work to indigents, hale in body and mind. Such it is in principle. Practically, the new pauper administration proceeds with praiseworthy leniency.

“The ancient parish administration has made room for a system of parish union composed of many neighboring parishes, according to the size of their populations. A board of guardians is elected by the contributors as administrators of the pauper affairs. Above this is the central commission holding the registers. Since 1837 most of the parishes are united. Each union has a workhouse. There are 600 such workhouses in Great Britain. The old workhouses revealed frightful abuses and all possible human miseries. Not seldom the same room contained children, paralytics, prostitutes. The law of 1834 improved the condition of infants and of old people. A healthy poor man has the workhouse as his resource. The poor husband, wife and children are separated in their working hours, but are united at table and half of Sundays. Persons who have visited these houses of refuge since 1834 have found there the children happy and

lively, receiving sufficient education to become errand-boys, farmhands, small traders. The women take up washing, sewing and housework; the men devote themselves to the crafts and trades.

"The poor-tax amounted to four millions of Sterling in the beginning of this century. It rose considerably during the wars against the French Empire, even to $6\frac{1}{4}$ millions. It increased with the bad crops in 1816-17 to nearly eight millions, fluctuating since between these extremes of four to eight millions, never rising higher. But since the pauper-law-reform it is better distributed and better used in the interest of both the poor and the public morality."

We gave here a succinct outline of the English charity and poor-laws. No doubt, they were the religious outcome of the imperfectly understood Biblical charity. Unfortunately, its social edifice, its solidarity, equality, human freedom and brotherhood clashed too much with the Gothic Middle-Age policy and feudalism. The Biblical benevolence-feelings and ideas, the founders of Christianity disseminated all over the world. But politics wrecked them. The Nazarene founder Himself was a working man, a poor man, who knew not in the morn where to rest his head in the eve. He was brimful with sympathy, pity and solicitude for the fourth estate, for suffering humanity. But his kind heart rose above his head. He was no political economist. He did not calculate as a statesman, but as a philanthropist. So did Plato, and even Aristotle. They did not read Adam Smith, Ricardo, and especially the cold reasoners, Malthus and Garnier. "As the lilies do not spin and the birds do not sow," he reasoned, so God will house, clothe and feed the poor, and even so should men do. Hence Christianity disseminated with its doctrine, its monasteries, its hospitals, almshouses and soup kitchens. But experience has shown that these are inadequate, yea, that they are nurturing and increasing pauperism. And so it was in England also. Her statutes made systematic provision for the poor. Still there is the classic country of plutocracy and pauperism which the Bible strove, with might and main, to avoid as the social Scylla and Charybdis.

Some twenty-five years ago, at a public meeting in behalf of the poor, Lord Salisbury feelingly called attention to the wretched condition of the London proletarians, their lawlessness, uncleanness, bad health and worse morals. He advised some State-aid, especially to build dwellings for the poor. But the late Professor Huxley, scouting all kinds of palliative expediency and superficial philanthropy, truly and concretely showed the true and hidden cause of that wretchedness, as well also as the final tendency of poor-laws and poor-rates. The cause of that poverty, misery and vice, he said, is their social degradation, the tremendous, real civil inequality of the masses in, seemingly, free England. The poor, though free and equal before the law, are socially, economically and really, pariahs. They are thus doomed to pauperism and wretchedness, and their economic distress is the cause of their physical, mental and moral degradation and ruin. The only solution for their problem, he continued with uncommon common sense, is *Emigration*, which alone will bring them betterment, to come with real social equality. A home with poor-rates, fuel, medicine and the charity-box, makes them beggars, outcasts and lepers, never citizens. Poor-laws may keep the poor from starvation, but perpetuates them also in pauperism and wretchedness. Poor laws are not in behalf of the destitute, but of destitution, nurseries of vice. The same opinion Huxley held up soon after on a similar occasion against Mr. Goshen (New York Tribune, Dec., 1883)—Here is the clue to most of modern charitable institutions, they are nurseries of pauperism. True benevolence is more than beggarly and clumsy almsgiving, more than to physic the sick, house the homeless, feed the hungry and clothe the naked, day by day have them come and beg, fawn and starve, until the relief officer condescends to pity them. The Hebrew prophets knew no alms, but benevolence. Assist thy *brother*, do not pauperize and degrade him. Benevolence is to prevent disease and infection, destitution, starvation and temptation, by just and equitable socio-economical arrangements; allowing everyone to earn a livelihood, to contract habits of prudence, of health, work, sane, plain living and cleanliness; fostering education and morality,

encouraging manly self-help, opening activities and industries to the poor and the strangers, offering them capital on small or no interest; screening them from sharp speculators and monopolists; utilizing their work and products; rescuing them from social degradation, sharp patronage and aristocratic ostracism; treating them with justice and civility, and not taking advantage of their lack of social patronage and ready means. True benevolence is, as in our chapter: "Not to vex and oppress the stranger, not to overreach the widow and orphan, not to crush the debtor with usurious methods, etc.;" wretched almsgiving is not prophetic charity.

CAUSES OF POVERTY.

And this is also the opinion of the soundest and wisest of political economists, such as Roscher, Michel Chevalier, Adam Smith, Ricardo, Bastiat, John Stuart Mill. Socialism and communism, the systems of St. Simon, Owen, Fourier, are Utopian, a *fata morgana* with our present social environments and ideas. They will not help the poor, but they will upset society if put abruptly into practice. The principle of property, of personal freedom and of inclination are the basis of our civilization. To upset them for a trial of any of the socialistic systems would be to first demolish our houses and then build castles in the air. These systems may contain some useful material, some stones toward a future, happy society. But only slow, gradual, cautious experience can show us which elements are sound and which are utopias and hallucinations. First to upset society and then try such vague schemes would be sheer madness.

The present social problem, misery, pauperism, has many causes not to be removed by abolition of property and granting of freedom. The major causes are:

The too great needs and pretensions of the rich, and even of the middle classes, those well-to-do. There is no doubt that the rich and aristocratic minority of our civilized nations waste too much on their dwelling, eating, drinking, smoking, gambling, dressing, sporting, amusements, vices, fashions and luxuries of all sorts. Hence the double misery! For this bears on the ne-

cessities of the majority of the people, because when the minority wastes, the majority starves. The wastefulness of the few is the cause of the penury of the many. So justly remarked Jean Jacques Rousseau: "Wherever I see a palace, I discover behind a hundred wretched huts." The effect of the reigning extravagance is not only onerous and baleful for the poor masses, but no less, if not even more so, for the luxurious classes. Dangerous diseases of body and of mind, effeminacy, hard-heartedness, laziness, infatuation and hereditary vapidity, are directly derived from over-weaning wealth and ease. The great aristocratic families deteriorate and die out quickly, and their place is occupied by the sober, plain-living, painstaking class of the hard workers. Malthus and others attribute economic misery in first instance to too large families. Too large families can become a cause of poverty, but it is not the main cause. With economy, careful thrift and plain living, one will rear more numerous, healthy and contented offspring than a wasteful, improvident man of the Malthus description. No doubt, the children of the rich get the best chances, places, official patronage and practical success. Theirs is the smooth way, and at first they get the better in the battle for existence. They obtain all the big loaves—but very rarely genius, superior merit or an honorable, historical name. These belong mostly to another species of aristocracy, that of the toilers, of the sober minds, and mostly too of the humbler, struggling social strata. Should society ever attain at such a high degree of civilization as to curtail its economical living expenses, there will be no plaint of over-population. A large family will be accounted a blessing, provided one remembers the axiom of the ancients: "First learn a trade, then build a house, last take a wife."

The next cause of misery is the thoughtlessness, levity and frivolity of some, assuming duties and responsibilities they cannot fulfill. Of others the causes of misfortune are vices of various kinds; of many it is unforeseen, undeserved misfortune; and of most it is lack of professional skill and mean laziness which makes them fail in the battle for existence.

Next to the just-quoted rabbinical saying is this wise adjunct: "Educating one's son without a profession is tantamount to rearing him for robbery"—a profound saying indeed. No professional training, bodily or mental or moral deficiencies and vices, no laziness, imprudence, recklessness, no diligent preparations to meet emergencies, and finally accidental, undeserved misfortunes, are potent causes of economic distress and misery, which in most cases lead to chronic pauperism and furnish the inmates for our poorhouses, hospitals, asylums, workhouses, prisons and penal colonies. Society owes education and professional training to every one of its members. The family owes them the best example of morality, sobriety, work, diligence, prudence, thrift. When state and family honestly perform these, their several duties, and both allow justice and free competition to their units, it will seldom happen that these will not profit by their example, and pauperism will not be recruited from the ranks of the well reared and prepared citizens.

And now we arrive at the honest, though exaggerated, economical warning of Malthus: Excess of population, teaching first to provide for food, and then to aspire to the blessing of a large family—wise enough if formulated in this way. No doubt, too early and imprudent marriages, followed by too large families, create pauperism among the working classes. A prolific family is a blessing on condition of heeding that alluded-to maxim, "that a provident man begins with learning a trade, next he builds a house, and finally he marries and gets children; a fool acts in the contrary way." The Talmud places the rearing of children in the front rank of biblical commandments, but on the express condition of first establishing a safe livelihood and building a house; otherwise it is declared a folly; and political economy sets it down as a crime, as productive of pauperism, overpopulation, misery and sickness. The Bible teaches the same (I M., 1-26): "God blessed the first pair, saying: Multiply and increase, fill the earth, subdue it, and rule over all," viz, work, create and enjoy.

Further causes of the social problem are of a more complex nature: The social and political injustices, the preferences and

discriminations, prejudices and arrogance, ignorance and overbearing of classes and masses. Then come the social privileges, the lack of true, free competition, and the overpowering abundance of artificial competition, privilege, protection, monopolism, the discriminations between man and man, not only in Morocco and Russia, but even in free America. The lucky ones are hedged in and protected by artificial barriers, and the outsiders, the weaker ones, are debarred from competing. Society allows the former a pair of wings; it burdens the latter with heavy chains in life's arena. It contrives licenses, formulas, titles, clauses, "trusts," just in order to exclude the assumed "outsiders" and keep clear the turf for the privileged classes, races and denominations. Then come governmental interference, protection of favored industries and professions by tariffs, customs and diplomas, huge armies, fortifications and navies, wars with loans and bonds, public expenditures, frauds and impositions, all accompanied by wastefulness, profitable to the few at the expense of the totality of the community.

An immense share of woe and warfare, with no small proportion of economic poverty and misery are derived from social, racial, ethnic and religious prejudices, accompanied by our political and industrial crises and revolutions, which render all our prudence and foresight futile and vain.

Last, not least, come our false systems of charity. Such charity often is not sympathy, but the deathblow to the chances of the impoverished social strata. It keeps them momentarily from starvation, but definitely plunges them into torpor, inertia, despair and improvidence. It takes away the stimulus to effort and robs them of the last spark of courage, energy, self-respect and self-reliance. All the above factors together create, with pauperism, decrepitude and immorality, mutiny, vice and crime, excess of the worst kind of population, lowering of wages, of human dignity, of work, adventurous and reckless daring, discontent, panic, war, socialism and revolutions. They are a constant menace to civilized society. See on this, among other wise economists, Joseph Garnier, "Elements de Finances," page

285. Philanthropy, self-sacrifice and poor-rates are no remedy here.

Utterly chimeric and Utopian are the above-alluded-to socialistic and communistic schemes. No; the social problem cannot be solved in one bound, by one remedy, one sudden, all-saving panacea. Only step by step, by educating and energizing, by experimenting and trying, improving here, discarding stumbling blocks there, we may gradually attain at the millennium, when plutocracy and pauperism, wasting and starvation, with ignorance and hypocrisy, will be eliminated; when reason, knowledge and competency, virtue and contentment, will become the heritage of mortals. A panacea for that there is not. We quote in conclusion the following from J. B. Say¹ concerning ill-advised charity:

Charity was practiced from time immemorial in the Jewish Community and State. We shall treat of that largely further on. But these charities were, as emphasized, duties to the needy, not alms to the paupers. The rich were rich on condition to assist the temporarily poor to become independent. They remained citizens and brothers, not outcasts. The Jewish charities were benevolence, and a leading feature of the Jewish community and society. Respectable poor were benefited in such a way that they never knew or saw their benefactors. It was handed to them in the *room of silence*, a special discreet place set apart for such delicate cases. But in the Ghetto, and even now, out of the Ghetto, this delicacy, this discretion and this respectability are gone. There is a good deal of boisterous, self-seeking ostentation in giving, and often as much abject boldness in taking. The charity is simply almsgiving, and the beneficiaries are mostly paupers, professional beggars. The charity institution is on the one hand an occasion for display and domineering, and on the other, one of pauperizing, degrading and nurturing an undesirable crowd of mendicants and "*schnorrers*." The Gentile Charity bears the same features. The wretched Ghetto might excuse it, not so free Israel with modern resources open to it.

¹[J. B. Say, Paris (1861) "*Economie Politique*," p. 486.]

The rabbis count eight kinds of charity, viz, giving alms to the poor, sullenly or ostentatiously, is the least meritorious, the lowest charity. The highest is, to assist, encourage and uphold the drooping and tottering, lending them money or one's influence or goods for resuming business, or offering them work, or opportunities for a livelihood, going in partnership with them, dealing fairly and kindly with them, treating them as fellow-men and brothers, saving their self-respect and self-reliance and thus putting them upon their own feet. That is charity indeed.

MOSAIC EQUALITY AND SOLIDARITY UNIVERSALIZED.

That is the charity recommended by Mosaism and prophetism. That is benevolence and humanity, that is honest protection, elevation, sympathy, encouragement of our next, the realization of "Love thy neighbor as thyself." It starts from solidarity, respect for human brotherhood; it proceeds to fairness, justice, forbearance, and develops into benevolence, dignity, sympathy. It begins with freedom and equality, with the right of all to aspire to happiness, to one right and one duty for all, and hence equal chances in the struggle for existence. Our noble United States Constitution opens with the axiom: "It is self-evident that all men are born free and equal"—that is not really a universally accepted truism; all men are not born free and not equal; but it is a wish father to the thought, an ethical truth, indoctrinated and instilled into our moral nature, taught and inculcated by the Mosaic Law. Shall the thrifty, the intelligent and industrious man have no compensation? The Thora says: He shall. The fruit of his labor is his; no communism! Shall the vicious, lazy and stupid one not feel his inferiority? The Thora says: He shall. Poverty and dependence shall be the consequence. Shall he be forever crushed; he and his family? The Thora says: No! Have patience, encourage, stimulate him to improve and better his condition. Society shall uplift him, reach him out a friendly hand, assist him to rise, make another effort, begin again and become self-sustaining and a useful citizen again. This is Mosaic solidarity and benevo-

lence. He has jeopardized his independence and freedom, lost his house and his family acre. Well, the year of Release and of jubilee shall remedy it. In the meantime "treat him as a brother; rob him not of his chances; crush, frown and work him not down; remember, a poor brother is a brother still. In the meantime shall he starve, beg, live on alms, or on air? No! 25 of each 100, about, of the produce of the soil are set aside for all sorts of unfortunates, poor, lazy, Levite, stranger, orphan and the widow, not as an alms, but as a duty! Why? Does Mosaism favor Communism? No! No; it accepts the hoary doctrine of Solidarity. It is just that the intelligent and thrifty shall have more; but it is unjust that the lazy, impoverished and stupid shall have nothing; the first no doubt profits by the latter; getting their own share and, in addition, the share of the latter one. It is just and fair that they do something for these unfortunates, to keep them from starvation and help them to rise again and stand on their own feet. Therefore, teaches Mosaism, Solidarity, humanity and benevolence, not as an ideal, a scheme for the far-off "Kingdom of Heaven," but for this terrestrial, tangible, realistic world, as a matter of fact, a duty of justice and prudence.

Can we complain of lack of love and charity in Mosaism? Need we go elsewhere to look for it? Must we construct new ethics instead of the prophetic ones? No! We have them abundantly in our chapters in discussion. And that is the touchstone of divine legislation, made to elevate man, create nations, avoid landgrabbing, accapuration, plutocracy, with dangerous, vicious tastes, abnormal appetites, vanities and ruinous wastefulness, on one hand, and on the other, pauperism, wretchedness, ignorance and vice; and gradually develop a vast, homogeneous, evenly and justly balanced democracy of free, equal and happy citizens. That is the scope of the Mosaic solidarity and charity-laws in discussion here.

ANALYSIS OF BIBLICAL BENEVOLENCE.

We shall now analyze the above quoted verses and find out that the Mosaic Solidarity and sympathy is entirely different

from the current charities and almsgiving. Its final aim is rather to do away with all habitual poverty: "Let no pauper-class arise among you (V M., 15, 4). That means give the poor work, encourage him, assist him in such a way, as to make him self-sustaining, so as nevermore to apply for help; assist the poor by eradicating poverty. The modern poor-laws are far from recognizing solidarity as their starting point. There lurks rather in them a good deal of selfishness, ostentation and overbearing, on one side; meanness and prostration on the other. They are nearly all more degrading than elevating. They keep the poor from sheer starvation, but breed and feed pauperism; first comes unequal competition with preferment, and pushes the weaker to the wall; unequal, unfair competition, remorseless and privileged, heartless and headless, without a spark of humanity and solidarity; that is the great source of pauperism. The weaker rival, crushed and ruined, in spirit and resources, is kept, fiendishly, in chronic pauperism, as a stag hunted down by a barking pack of dogs, until he surrenders, poor and broken-hearted, a beggar, soon an object of police surveillance and the charity society, his outlet becomes the hospital and the poorhouse, or the workhouse and the penitentiary. Thus most of the modern poor-laws, without solidarity, sympathy, or a drop of real charity, are often the highway to pauperism, to moral, social and economic degradation. They render their object a burden to society, a shame to the community, a standing menace to the State; Communistic or revolutionary itchings are the outcome of such wretched Poor-Laws.

Another scheme is the Mosaic charity and solidarity. It means: Live and let live, assist not by alms, but help to independence; shield the poor and eradicate pauperism. Now that scheme is not only noble, generous, ideal; it is more—it is wise and just; it is written not only in the Law, but also in the heart, but also in the brain and logic of man. It does not declare, with Mr. Joseph Chamberlain, the English Radical once, later of Boer fame, that "the rich must pay a ransom to the poor," but it opines that it is just that the wealthy should

effectually help the poor, since the first have profited by the latter, since the alert and successful ones profit by the unsuccessful. It is an iron fact that the lucky, wise and able get the share of the luckless, weak and thriftless, even by fair means. They get not only their own share, nay, voluntarily or involuntarily, the incapacity, the imprudence, the vice or the misfortune of the poor redound, for the time being, to the benefit and swell the portion of the victor in the struggle for existence. Now come in the unfair means of overreaching and exploiting. All that, if left unchecked, will produce the worst plutocracy and pauperism. And since chronic poverty and luxurious wasting can but tend, in fine, to the disadvantage of all, the wealthy themselves included, it is therefore just and wise, not simply kind and charitable, that they should assist the needy to a competency. This teaches alike religion and political economy; the divine and the human laws coincide herein.

This aim of the Biblical humanity and charity laws is thus summed up in V. M., 15.4-10: "*That there may be no pauper among you*" (though there will be enough of poor ones¹), for "the poor man will not be missing in the land." No illusions! Poor ones there will ever be in human society; the communistic ideal is futile; but look out that the poor shall become no pauper; let not unscrupulous and unfair competition, selfishness and social ostracism close against him all the avenues of production. The great institutions of the *Jubilee*, the year of Release, and the Sabbath, of which we have elsewhere treated² and shall yet continue, were created in that behalf, the bodily rest and recreation, the mental and moral elevation and education, the personal freedom, and the hereditary cottage of the poor, etc., are safeguarded by the law. It bids the wealthy to leave for him part of his own crops, to admit him to his hospitality; to spend liberally and, better even, to lend him; not to be a hard creditor, or a hard master. Whilst the Years of Release and of Jubilee aim at a total renovation and restoration of society.

¹כי לא יחדל אביון מקרב הארץ, אפס כי לא יהיה בך אביון (V. M. XV. 4-10)

²See "Spirit of Biblical Legislation," pages 83 and 137, etc.

All that shows the grand statesmanlike, far-sighted object: "That there shall be no pauper class among you;" that there may be a chance for everyone to gain a livelihood and "be happy in the land allotted them." Here the idea is propounded that a just distribution of wealth with a fair contentment of all, should be the great object of the State and the nation; that *live and let live* is the best policy. With the zeal of a philanthropist and the accuracy of an economist, the Lawgiver shows solidarity to be the safest base of society and frames his positive laws in accordance, as will be specified further on.

MOSAIC BENEVOLENCE, POSITIVE AND NEGATIVE.

The Mosaic laws on Humanity and Charity, scattered throughout the entire Pentateuch, may be further divided into two categories, a positive and a negative one: Do good and do no harm; be helpful to, and be not in the way of, your next. Let us explain: I. The positive set of laws commands to the citizen an actual sacrifice; it imposes a tangible tax or gift, for the benefit of his fellow-citizen; it is active well-doing: Do unto thy neighbor what thou wishest he should do unto thee. It is a partial self-sacrifice, though fully recognizing the right of private property, though not believing in "*a ransom to the poor*," the Lawgiver, nevertheless, bids us give up a fraction of our right in favor of a neighbor in distress. This he enacts in the name of God, the Lord of the theocratic State, who alone is absolute owner of all, and which ownership he ceded to the citizens on condition and under the reservation that the unlucky poor shall have their shares under the tutelage of the rich brother. Such diverse imposts are levied upon the annual produce and harvests. The harvest belongs, of course, to him who raised it; yet, in the name of God, solidarity and humanity, a notable part thereof, about 25 per cent. in all, goes to the needy, as a right, not an alms!

The other set of humanitarian laws in Mosaism is: II., *negative*, laws of omission, not of commission, of prohibition, abstention from doing. "Do not unto thy

neighbor what thou wouldst not he should do unto thee." This negative benevolence was later inculcated by Hillel the elder; the positive side was upheld by the founder of Christianity. Mosaism embodies both sides, but the negative side is preponderant, and justly so, as we shall further see. It corresponds best to the modern economic principle of "*Laissez aller, laissez faire*"—get thee out of thy neighbor's way, hinder nobody; live and let live; do no harm; remember thy neighbor, too, has a right to exist. Weighty as the first, positive set of laws are, as we shall soon point out, the second set, the negative ones, are infinitely more numerous, varied, more accentuated and really important. The Lawgiver intimates plainly that when these negatives are conscientiously carried out, the positive ones might be superfluous and dispensed with; here, we believe, he is supremely in the right. Let every man have his due; let nobody encroach upon his neighbor's limits, and no one will need a charity. Nature is built on justice, not charity. Let simple justice prevail, and we may dispense with human mercy. Let nature and society allow to everyone the same chances in the struggle for existence, and nobody will ask for a gratuitous favor. True, Shakespeare said: "If everyone will have his due, nobody will escape whipping." Well, then, people should condone mutually, and none need a charity; prudence would advise not to "cast stones from a glass house," or to "see the beam in their own eye, before they point to the splinter in the neighbor's eye." But everyone has not the same chances in the struggle for existence. One runs his race with wings to his body, and another with chains to his feet. Equal and free competition is right, but competition is not free or equal. Have all the same chances in life's career, in the advantages of birth, of health, of personal beauty and size, of education and patronage, of examples of morality, effort and wisdom? Let the arena of life's battle be open to all, and on the same terms; then we shall have, with rare exceptions, equality of fortunes; we shall have a real democracy, a genuine and fair average parity in brain, muscle, pocket and station. Then we shall surely not need of any posi-

tive charity; let everyone have and do right and justice and we might pretty much abolish all active philanthropy, extreme cases excepted. The fact is: Active charity is the last resource, a sheet-anchor, a makeshift, partially to make good social wrongdoing; charity is a poor amends for cruel wrong; active benevolence is but an impotent effort to fill up the yawning gaps, lack of justice; for every one dollar of almsgiving a hundred have been stolen or misplaced; for every tear of sympathy there are a hundred shrieks of suffering innocence. Could any lawgiver construct a Commonwealth with full justice to each and all, there would hardly be need or even opportunity for charity to any; all almshouses, asylums, hospitals, workhouses and orphanages might be closed. This ethical and economical aspect appears to be the Mosaic standpoint.

Returning now to our Biblical, positive laws on humanity and sympathy, let us consider, first, the alluded-to three institutions, of the greatest importance to Society. They are the *Jubilee*, the *Year of Release*, and the Sabbath, considered from the purely politico-socio standpoint; let us carefully set them forth in the following historic survey:

THE SOCIAL PROBLEM IN GREECE AND ROME.

Since mankind began to form into communities and states, the great difficulty stared the lawgiver into the face how to steer safely the ship of society between the Scylla and Charybdis of exorbitant wealth and abject poverty. The modern so-called *Social problem* is as old as humanity itself. Society had its rudiments in the family, the tribe and the clan. No doubt the head of the family, the patriarch, was the impartial holder of the communal property, which he fairly utilized for the good of all. But when these naive conditions were no more, when conquest and self-defense compelled many tribes to form themselves into one people, the chieftain soon proved to be partial to his friends, his vassals, satellites and assistants. Hence there arose the differentiation of rich and poor. The rich had every interest to uphold the ruling dynasty; the poor could hope but

from a revolution. The lawgiver, be he governed by the desire to better the condition of all, or only to secure the well-being of his own, the ruling class, had to grapple with the Social Problem, how to ameliorate the lot of the poor, or at least to reconcile them to the social arrangements. So we see Draco, in Athens, try to get acquiescence by intimidation and cruel punishments; Solon resumed his work, and succeeded better by dividing his society into dominant and subject races, and opening to the first the avenues of wealth by conquest, industry, commerce and arts. But he did not fully succeed. The two extremes, Plutocracy and mob-rule, kept the State in constant agitation. Before them Lysurgus, of Sparta, introduced a partial or masked aristocratic communism. The subject-clans were reduced to absolute, cruel enslavement, Helots, and the dominant race was constituted as an entrenched, military camp, a fighting aristocracy, under two hereditary leaders, with a socialistic regimen, a kind of "Philanstere," where property was not legally abolished, still almost useless. It really was no leading factor of the community, because it was hardly worth while possessing. The citizen was but a member of a standing army; the State was the unit, the citizen a cipher, swelling the value of the State. The citizen had hardly a family of his own; he did not live with and educate his children; the State did. His children hardly belonged to the father, nor was his wife his, either by mutual selection or exclusive possession; his meals he had to take in public, at the public eating table, together with his adult fellow-citizens, not with his family or friends or guests. His dress was a homely, rigidly plain, officially prescribed military uniform; his home and furnishing were primitive and scant, prescribed alike for all, by law and custom; all luxury and refinement was excluded; his amusements, tastes, occupations, honors, glory and distinctions were all of a public, national, military character. His field-work was done by the public slaves; he had no industry, no arts, no commerce, and could by no means enrich himself. And wherefore? He could not buy his neighbor's place, field, freedom or vote; his money

he could not profitably invest or loan out, but had to keep it and guard it in *big copper coins*. Thus for centuries during the reign of the Lycurgian Laws, riches were hardly worth having. Lacedemon was, in fact though not in name, a Communistic society, a military camp, a Philantere governed by her sages, the Archonts and Ephori. She made herself formidable, not loved, nor envied. The citizen, the man, the woman, the parent—all was sacrificed to the State. The State was the object, man and woman the tolls, yea the ciphers; man and woman were sacrificed to the State. Lycurgus had thus succeeded in avoiding plutocracy and pauperism, classes and masses; but the State rested on slavery and war. He solved the social problem by sacrificing all society is made for, manhood, womanhood, freedom, virtue, happiness, and so Sparta was a failure after all its artificial greatness. It claimed parenthood with Israel, but without proof.¹

In Rome we find first a military royalty, which, after an aristocratic revolution and a popular uprising, turned into an aggressive aristocracy. By war and conquest, the wealth of the world began to pour in. Soon the unscrupulous demagogues, the popular patricians, and the successful imperators drew that wealth into their private coffers, while the humbler masses of citizens, the large majority, got nothing but the blows. So dangerous discontents and convulsions set in. As a doubtful remedy and ventilator, the Senate contrived to continue aggressive war abroad, in order to avoid invidious civil war within, and upheld the people's cravings for their share of the booty. After the *secession* of the Plebeians on the Sacred Mount to their obtaining the privilege of the Tribuneship, more concessions were necessary and also made to their avidity (B. C. 494, *Secessio Plebis in Sacrum Montem*.) Cassius Viscellinus tried in 486 B. C. a modification of the land-laws in favor of the Plebeians; they acquired also the right of intermarrying with the

¹It was, as such, in actual alliance with the Maccabean leaders. See Josephus and my II J. Commonwealth and "Maccabean War" on that.

Patricians; they afterwards obtained that of occupying the consulship; but all that was in vain; it would not bridge over the Social Problem, the abyss between the rich and the poor. As an old safety-valve, the Senate continued to evolve war from war, never stopping, until Rome gradually conquered the world; all in order to satisfy the Social Problem, the demands of the poor for their share. But all was in vain. That abyss would not be bridged over; it rather widened. Two tribunes of the Gracchus family had introduced, boldly, the *lex agraria*, viz, to give public lands to the poor and form colonies for them; the existence of the State was in imminent danger, the agrarian innovations were put down, together with the schemers; such socio-economical maneuvers were repeated by the tribunes again and again—see Tit. Livius' "History of Rome," II Book etc.—by wholesale assassinations; but the strife between Plutocracy and Pauperism would not be settled. It resurrected again and again, as the thousand heads of the hydra, with the civil wars of Marius and Sulla, of Cæsar and Pompey, of Octavian and Antony, etc. It culminated at last in the overthrow of the great republic, under Emperor Augustus Cæsar. Still the Social Problem was not solved. This survey of the leading States of ancient times shows the gravity of that everlasting feud between exorbitant wealth and chronic poverty, between employer and employee. So it was in Greece and Rome, so in other countries and other times; for the social problem embraces all countries and ages. It is as old as the mountains and calls for other remedies than those tried there. The social question is as old as Society. We did not need to wait for Marx, Tolstoi, Bebel and Lasalle to invent it. We find it distinctly in every advanced social phase—in Hammurabi's Stela, in the Mosaic Covenant and in Horace's Satires. The latter one boldly and most plainly declares: "Nature has made the owner of the soil neither him, me or anybody else. He dispossessed me, chance or chicanery will expel him, and him (will expel) his heir. This acre now is Umbrenius', recently mine, soon another's; temporary usage is all. Hence be

brave and prepare for any emergency."¹ Against these evils had the Mosaic Legislator, also, to contend. Let us see what remedy he proposes.

THE SOCIAL PROBLEM IN MOSAISM, MCGLYN, PAPACY.

Placing himself upon a higher platform, assuming a more absolutistic and theocratic standpoint than Greece and Rome mentioned, or the Babylonian and Egyptian priestly States, Mosaism started with the axiom that: Everything in existence belongs to God alone. "Mine are the Benai Israel; mine is all the land. Ithv's is the earth and its fulness,"² and God lends that to his people, to the citizens, his worshippers and subjects, who shall thankfully use the good things of the world, but not selfishly and miserly. No; they shall liberally enjoy them, together with their fellow-man, and leave the soil intact to their successors. That standpoint, politically looked at, is analogous to the tenure of land in the Teutonic monarchies during the Middle Ages. The king conferred a grant of land to his followers on condition of loyalty, of performing vassal services, and leaving the estate entire to their posterity, on the same terms. The feudal landowner was but the delegated proprietor of the grant; he had to do homage for it to the Chief; whilst the king was the only proprietor of the soil, in the last resort, as the locotenant on earth of God, the Supreme Lord.

When later, gradually, the Popes laid claim to the suzerainty of the globe, and pretended that every sovereign in Christendom should take his investiture from, and swear fealty to, the See of Rome, as successors of St. Peter, the legal position was that same

*'Nec propriae telluris herum natura negue illum,
Nec me nec quemquam statuit : nos expulit ille,
Illum out nequities ant vafri incita juris,
Postremum expellet certe vivacior heres,
Nunc ager Umbrini subnomine, nuper Ofellae
Dictus, erit nulli proprius, sed cedet in usum,
Nunc mihi, nunc alii, Quocirca vivite fortes,
Fortiaque adversis opponite pectora rebus.*

²Ps. 24 : 1—II M. 19, 5—II M. 32, 13 and 33, 1.

theocratic one mentioned, viz: God is sole owner of the land, and He gave it to his Vice-Gerent, the Messiah or Christ, and his successors, the Popes. The Roman See added but the claim, that St. Peter was that successor and the Pope his *locum tenens*. Hence is the Pope the earthly suzerain, and all the princes owe him homage. Thus later, again, when Columbus discovered America, the Pope claimed ownership of it by the same title, and indeed the Spanish monarchs had to take their investiture at his hands. Some years ago a Catholic preacher, Dr. McGlyn, took that position consciously and in full earnest, as the position of the Pentateuch; but, dropping the Papal claims, he substituted a popular patriotic claim; he insisted that dear Ireland's soil belongs neither to the Anglo-Saxon nor the Norman lords, nor to William of Orange, nor to Oliver Cromwell, its conquerors, but, according to Mosaic land tenure, it belongs to God alone, who gave it to the Irish people, and that could not be forfeited by purchase or wrested by arms and conquest, but is and remains God's, the only Supreme Lord, and the Irish people's as his tenants. Of course, the Church, though adopting that theory as to the position of the Popes, declared it heresy in Dr. McGlyn's new construction. After some time of insisting he retracted and re-entered into the bosom of the Church. That Irish Tribune, with much show of right, overlooked the fact that not only the Irish are God's children, but also those Anglo-Saxons, etc., who, after them, received also part of Irish soil, not by conquest from Cromwell and Orange, but, from generation after generation, for value paid, in best faith; that they had purchased and did not conquer the soil; just as the good Irish did, previous to Cromwell. Hence they, too, deserved all consideration, and these contradictory claims can now be reasonably settled only by arbitration and compromise, not by rude ejection or learned theories. So he did well to submit to the Church and common sense.

In the Biblical theocracy God was the feudal king and sole landowner. Hence we read (III M., 25, 23): "And the soil shall not be sold forever, for mine is the land and ye are but

my tenants and inhabitants." Upon this base the lawgiver took a middle course, just between communism and property-right. The soil was inalienable, and so was the personal freedom of the citizen. III M., 25, 40, reads: "If thy brother will impoverish and be sold unto thee, thou shalt impose no slave-work upon him. As a hired man and a fellow-citizen he shall be with thee till the Jubilee-year comes, when he with his children shall leave, free, and return to his family and his parental estates, for mine they are . . . They shall not be sold as slaves." Building upon this firm ground, that God and the State alone are landowners, and the citizens but its tenants on equal terms, their personal freedom and their hereditary farms to be and to remain inalienable, the Legislator founded and grounded his three grand institutions, as impregnable and eternal strongholds against the encroachments of plutocracy and pauperism. He consecrated property, he discarded communism, he granted the freedom and the initiative of the individual; but he did not go to the extreme of giving unchecked career and full allowance to greedy acquisition by unscrupulous, artificial competition. Communism kills all spirit of free emulation and robs all stimulus and motives to exertion; no one will work when the fruit of his labor is not his own. When there is no difference between capacity and imbecility, between acquiring and wasting, between the industrious and the lazy, between the wise and the virtuous, and the foolish and vicious, then the commonwealth will starve. On the other hand is unchecked competition, usually and practically under unequal chances, just as disastrous to the true interests, the advance and the morality of society as communism is. If the arena of life were open to all, *and on equal terms*, competition would be just and politic. But these terms are usually most unjust and unequal. Birth, education, example, encouragement, wealth, patronage, position, accident, etc., help the one and hinder the other. Civilized society and the law must, therefore, protect the weaker party. Hence our economic laws of the Pentateuch chose a middle course between the two extremes, effecting a compromise by which these two extremes, plutocracy

and pauperism, should become impossible. These institutions are, we have seen, the *Jubilee*, the *Release-Year*, and the *Sabbath*; the weekly rest-day is the social pivot. One day out of seven is to be devoted as a general rest for the dependents, the stranger, the poor and the domestic brute (II M., 20.10 and 23.12): "That may rest thy ox, thy slave and the stranger." Every seventh year the soil is to enjoy an agricultural respite—no ploughing, tilling or sowing; the spontaneous growth is to belong to the menial, the stranger and the brute (III M., 25.3-7). All debts also—only the poor borrowed then—are to be extinguished (V M., 15.1-5), and every Hebrew slave is to go home and be free (II M., 21.2).

"At the end of the seventh year thou shalt have a release . . . Every creditor shall release his neighbor of his debt . . . Of a foreigner thou canst exact it; of thy brother thou shalt release it. It is called the *Lord's release* . . . In order that there shall be no paupers among thee, but Ithv will prosper thee in the country He made to be thy inheritance." There can no doubt be entertained that the Lawgiver meant a definite and absolute cancelling and relinquishment of the debts to obviate pauperism. The frequent popular rebellions in Greece, Asia and Rome on account of crushing debts and usury makes the sense of that institution clear. The Roman tribunes remembered it. Cicero in his Cataline harangues distinctly alludes to it as "The new tables." On account of later, more commercial environments the Rabbis did not insist upon abolition in its full, real sense. It was a bold innovation of Hillel—the *Prosbal* (a Greek word meaning postponement of payment, prolongation of the debt), or depositing the claim in the Court, which stayed its forfeiture and made it good and valid *after* the year of release. In fine, every fiftieth year (III M., 25.10), or seven Release periods, all men, women, houses, farms and soil were to return to their original condition, effecting thus a total social and economical renovation and restoration. (See "Spirit of Bibl. Legislation," page 83.)

CHAPTER II.

The Positive Benevolence Laws.

These three great institutions, Sabbath, Release and Jubilee, were the solid foundation upon which the Mosaic Society was reared. They had a manifold aspect, but we consider them here from the economic-social standpoint only as affecting the *Social Problem*, most far-reaching and going to the root. Since excessive riches and poverty are the great curse of society, creating vice, sloth, overbearing and ambition, on one hand, and, on the other, want, misery, degradation, envy and mutiny, sacrifice of conscience, dignity and liberty; creating standing armies, wars and conquests, with servitude, fraud, violence and social decay, the Lawgiver proposed these institutions as their radical remedy. He did not resort to the masked communism, as later Lacedaimon did. He sanctioned property, labor and wages; he allowed free individuality, effort and competition, but he fenced them in with strong hedges, by moderating the selfish tendencies and harmonizing them with the interests of all. He did not sacrifice the individual citizen to the State-Moloch, as in Sparta and Rome, but he compromised between them by his laws of humanity, charity and solidarity. He tried to keep up the original equitable distribution of lands by not allowing any definite alienation of the hereditary family farm. Every 50 years there was a total restoration of the original land-ownership. Every seventh year the slave became free and returned to his family, and every seventh day every man had the opportunity to recuperate bodily, mentally, and thus conceive the desire and the means to rise and improve ethically, politically, socially and economically. Upon such a foundation the Mosaic democracy was reared, and the most dangerous obstacles, plutocracy and pauperism, with their manifold baneful accompaniments, discarded.

This Mosaic proposition as a cure and solution of the Social Problem contains some elements which even today might be

tried with the hope of good success. To secure to every man a family-acre, inalienable and unsaleable, would be a powerful check and a great resource against pauperism and land-grabbing, even today. Even today it would help solve the entire problem of avoiding both luxuriousness and want, with their train of envy, hate, degradation, on one side, and ambition, extravagance and despotism, on the other. The reason thereof is that in primitive times land-property was *the* property; at any rate, the chief source and backbone of wealth. Today, industry, commerce, capital, talent, inventions and labor have by far outstripped the value of land-property; and these marketable values are personal property, hence saleable and alienable; or else we must resort to communism and abolish property. Therefore these latter factors will forever continue to be a source of economical inequality, which will threaten to subvert the democracy and reopen the baneful Social Problem, as we see in modern society, even in our free United States. But in primitive times,¹ when those agrarian institutions were created, they were most important and went to the core and root of the evil. Still, even in our highly industrial environments, the securing of an inalienable family farm to every citizen is worth while considering and may remedy at least the excess of the evils of plutocracy and pauperism.

By these three great institutions the Lawgiver constituted his State as a purely agricultural and cattle-breeding, pastoral community, curtailing all commerce and larger industries. Since he declared it a duty to loan goods and money to the poor, to loan it without interest and profit, and to relinquish the unpaid debts every seventh year, this was to be a formidable drain upon the wealthy and a powerful assistance to the impoverished. And when we consider that the accumulation of debts, with their usury, was the great source of social discontent and upheavals in

¹Primitive by comparison with ours. Since the better knowledge by the discoveries of the ancient literary treasures, we begin to surmise that those times were not primitive at all. Maybe, even that, as the Sabbath-rest is pre-Mosaic, so the Release and Jubilee epochs had been tried in previous times and later forgotten.

Greece and Rome, bringing them often to the brink of destruction, and at last led to civil war, to despotism and subjugation, to Cataline and Cæsar, we must accord the palm of far-sighted sagacity to the Mosaic propositions. The Sabbath, the Release Year and the Jubilee were the personal, weekly restoration, the partial, economical, seven-yearly restoration, and the total social fifty-yearly restoration of the Biblical democracy, guaranteeing the equality, the freedom and the bread of each citizen and the permanency of the democracy. No money-aristocracy and no pauper-servitude, but equal chances for all—the grandest benevolence, humanity and charity Laws ever enacted, because they meant no alms, but solidarity, justice and fairness to all. There is and was in ancient and modern codes a law of *Prescription* or *Limitation*. When a citizen had occupied an estate for one hundred years, without any legal opposition, that constituted him the legitimate proprietor of the estate, without any further proof, and no appeal against him was available. That is in favor of aristocracy. The Mosaic Law had no such a law of *Limitation*. On the contrary, the Year of Release and the Jubilee constitute a reminder of restoration and rehabilitation of persons and soil to the original owner, that his right never was forfeited, and that favored democracy, economic equality, with political and individual liberty. The Release and Jubilee, with their effect of retrocession, instead of limitation and forfeiture, reminded the land-grabbers that “A hundred years of injustice does not constitute one year of justice,” as once pointedly remarked a Saxon farmer to an aristocratic claimant of perpetual lordly rights.

Thus the Mosaic Commonwealth was established on the freedom of person and of soil, harmonized with the sacredness of property, labor and its rewards. No Communism, still no allowance to aristocracy, plutocracy and abject pauperism; property combined with morality and altruism. Everyone was entitled to the fruit of his labor, every stimulus was given to work, diligence and thrift, with full, fair competition, still with the necessary limitations and hedges against unfair competition,

land appropriation, buying of votes, persons and influence, abuse of patronage, tending towards final, total restoration and renovation of the social body on an equal economical basis. The person and the family-acre were declared inalienable, whilst personal acquisitions, the fruit of our labor, could be disposed of; but since commerce, industry and large accumulated capital were rare, the social equilibrium could not be much endangered; wealth and power remained fairly balanced, and we never hear of any such upheavals in Jerusalem or Cæsarea as we do in Greece and Rome, bringing the State and the people to the very brink of ruin, and making them collapse by the collision of their own warring classes. The first and the second Jewish empire fell by a formidable pressure from without; within, they ever remained unshaken and firm, thanks to their institutions, to such a degree that scarcely had the legions retired when the Rabbis restored the State, to be again convulsed and finally destroyed by external enemies—never from within; they had no Social Problem.

OFFERINGS, HEAVES, TITHES AND OTHER GIFTS TO PRIESTS,
LEVITES, POOR AND STRANGERS; HOLIDAYS.

Mosaism, now, starting with the view that the soil belongs to God, the sole owner of all, and that, when yielding it to his people, he reserved certain rights to the poor, ordained the following imposts or gifts to the priests, the Levites, the indigent, the widow, orphan, stranger, etc. It ordained 2 of 100 for the support of the Temple and priests; 10 of 100 for the sustenance of the Levites, the assistants in the Temple, the judges, teachers, police, etc. It allowed further 10 of 100 to the poor, the widows, orphans and strangers. Finally, it gave to the latter ones part of the crops, as the gleanings, forgotten sheaves, the edges of the field, the tops of the fruit trees, etc (III M., 22.22). All that may have constituted about one-fourth of the entire produce in grain, fruit, wine, oil and cattle.

Mosaism institutes three yearly festivals, viz, in the beginning of spring, of summer and of autumn, the beginning and closing

of the grain harvest in Judæa and the close of the fruit harvest there.¹ These agricultural holidays are at the same time seasons of positive charities, recreation for the poor and their participation in the feasts of the family (III M., 23.1; V M., 16.1, etc.): "Thou shalt rejoice before the Eternal thy God, thou, thy son and thy daughter, thy male and thy female servant and the Levite, the stranger, the orphan and the widow . . . for, remember, a slave thou hast been in Egypt . . . therefore I ordain thee this." The Israelite shall enjoy the world's good things as divine gifts, in company with the poor, well remembering that he himself was once poor, yea, a slave; hence no overbearing, but sympathy and solidarity, live and let live!

The Talmud extended and elaborated these Mosaic gifts as positive duties, in diverse Codes, each treating of one of the above humanitarian imposts, everywhere inculcating to befriend the poor and make them feel as inmates of the house, especially on festive occasions, and thus rendering benevolence and good deeds a leading trait of the Hebraic physiognomy.²

THE TALMUD ON: LEGAL GIFTS TO THE POOR (*Maimuni Yad, Zeraim, 21-25*).³

On reaping the crop, one must leave the edges or last rows of the cultivated field for the poor. The same on gathering the fruit of the trees, some must be left for them. This is called *Peah*, as written: Thou shalt leave them (the fruit) to the poor and the stranger.—The same it is on gathering the grain-ears into sheaves; one must leave to the poor those ears which drop down whilst gathering them, as *Leket*. Equally, one must not pick up the single grapes during the vine-crop, or the scattered bunches of grapes (*Peret Oleloth*). The same in making up the sheaves and forgetting one in the field, one shall leave it for the poor (*Shikcha*).⁴

¹The fourth festival, feast of lights, in winter, completing the cycle, was later added, representing the four yearly seasons, together.

²ישראל רחמנים בני רחמנים

³הלכות מתנות עניים, לקט, שכחה, פאה, פרט עוללות

⁴ושכחת עומר בשדה. וכרמך לא תעולל, ולקט קצרך לא תלקט, לעני ולגר תעזוב אותם. לא תכלה פאת שרך

All these belong to the poor, as a right, not a voluntary alms of the owner. They belong to Jewish and non-Jewish poor, a humanitarian duty¹ in Judæa, but, rabbinically, in Judæa and in any other land. As to the quantity, it is at least one of sixty. (Chapters Yad, 1-5.)

HEAVES AND TITHES.

(*Maimuni Yad.*) After this, the owner is to give to the poor 10 of 100 of the crops as the tithe of the poor.² Next, one of 50 for the priests. Next, 10 of 100 for the Levites, the first tithe. Next, 10 of 100 as the second tithe, which is to be consumed by the owner and his friends in Jerusalem. The tithe 10 of 100 for the poor takes places only during the third and the sixth years of each seven years' cycle, during which two years there is no second tithe. During the year of Release, the entire spontaneous harvest is free to all. This takes place in Judæa and in the countries adjacent upon it. There the first tithe for the Levite, and the second tithe for the poor are levied. Of the first tithe, again, the Levite must pay his 2 of 100 to the priest (*Ibid.*, Chapter VI.)

BENEVOLENCE AND ALMS IN TALMUD.

(*Ibid.*, VII, 1, etc.) It is a positive commandment to give alms to the Jewish poor, male and female, according to the means of the donor, since it is written: "Open, indeed, thy hand to him; encourage the stranger and thy fellow-inhabitant." (The Rabbis interpret *ger*, stranger, as meaning only the proselyte, in full.) Whosoever sees a poor man begging and closes his eyes and gives him no alms, has committed a sin of omission. You are bidden to spend to him according to his needs, in clothes and furniture, even marriage. If such a man has been accustomed to ride on horseback, with a servant running before him and has now become poor, he must be provided with that. A good man gives in alms about one-fifth part of his

¹ מפני דרכי שלום

² מעשר ראשון, מעשר שני. תרומה גדולה, מעשר עני

income; one-tenth is middling; below that is avaricious. Even the needy one, living himself on alms, shall spend to other poor. An unknown poor asking for food must be given at once to eat, without any further questions. If he asks for clothes it is best to see whether he is not a fraud; but if he is known as a decent poor, he shall be clothed at once becomingly, without further inquiry. The Gentile poor are treated the same as the Jewish ones, for the sake of peace and humanity. A poor man who refuses to take alms shall be assisted in an indirect way, as a gift or a loan. Who can give charity, and will not, the Judge compels him to do so. Orphans, even if rich, are not required to give charity; and women but a trifle. A poor relative comes first; next come our city poor.—(Chap. VIII.) The redemption of prisoners and war captives comes before the support of the poor. It is the noblest charity. Who treats such with indifference has transgressed many sins of omission. A female poor comes before a male one; the same, a female captive. A maiden orphan is to be given away in marriage. Among the Greeks also that was considered a great charity (*Cornel. Nepos, Epaminondas*). The learned poor or captive comes before the ignorant one. A learned bastard comes before an ignorant high-priest. Among many scholars the greatest one has the preference.—(IX Chapter). Every city shall appoint its charity officers (*Gabai*) to collect the poor-rates and distribute them daily or weekly. On fast-days the poor shall be specially remembered. Some Rabbis even declared this to be the best part of the fast.

Maimonides, Yad Zeraim ON: HEAVES AND OBLATES
(*H. Teruma*).

The priestly Heaves and the Levitical Tithes are levied only in the Holy Land, according to the Thora. But the Prophets prescribed it also for Babylonia, and the Sages added still there to the countries of Syria, Egypt, Amon and Moab, all close to the Jewish country. Every kind of human food, owned by somebody and growing from the soil, requires the priestly heaves and Levitical tithes. The priestly heave is, liberally donated,

one in forty, and the least is one in sixty. It belongs to the priests and their families of the tribe of Ahron. The preference has the scholarly priest observing the Levitical purity.¹ (Sanhedrin, 90b.)

Treatise *Trumoth*, *Mishna* 4, 3, reads somewhat different from the above. The quantity of the heave is, liberally donated, amounting to one of forty. The Shamaites say one of thirty. The medium is one of fifty; the least is one in sixty.

TITHES (*Hilkhoth Maaser*).

Tithes belong to the Levites. After the *Theruma* has been heaved away, one of ten is raised for the Levites as tithes, or *Maaser*. This must be done as soon as the grain is brought into the house and gathered in from the field. As long as these tithes have not been paid the grain is unfit to eat, *Tebel*. In the times of Johanan, the high-priest, after Simon the Just, the great Sanhedrin had an inquiry made, and found that the Jews are conscientious in donating the priestly heaves, but greatly neglecting the tithes, the first, the second and that for the poor; therefore, they determined to have that supervised by trustworthy men. The common people were not trusted, and hence their grain was termed *Demai* (doubtful). We repeat, the first tithe was 1 of 10, for the Levites; the second tithe was to be consumed by the owner and his friends in Jerusalem; and the poor tithe was but twice in the seven years' cycle (*Tr. Masroth*, *Mishna* VII, 1). Tithed must be every eatable thing, owned by somebody (not free), growing from the ground.² Of vegetables only the better kinds were tithed; the meaner not.

Maimonid. Yad, Zeraim. ON SECOND TITHES AND FOURTH YEARS' FRUITS.

(1) After the first tithe has been put away comes the second tithe and the tithe for the poor. This poor-tithe is due on the

מנין שאין נותנים תרומה לכהן עם הארץ?
 כך המחזיק בתורה יש לו מתנות, ושאינו מחזיק אין לו מתנות: Sanhedrin 90, b.
 כל שהוא אוכל ונשמר ונדלתן מן הארץ חייב במעשרות.²

third and on the sixth year of each cycle, in place of the second tithe, which is then omitted. On the first of Tishri is the beginning of the year to give the tithes of grain, fruits and vegetables, and the 15th of Schebat (about February) is new-year for the fruit of trees. (2) The second tithe is consumed within the walls of Jerusalem, as long as the Sanctuary existed. The consumers must be Levitically clean. An ignoramus (*Am Harez*) shall not eat of it, just as the first tithe and the priestly heave.

Neta Rebai.

In Levit., 19.23, we read: When you plant any fruit tree, then shall you count its fruit during the first three years as un-circumcised (unfit to enjoy); it shall not be eaten. But in the fourth year shall all its fruit be holy, a thanksgiving to the Lord. And in the fifth year ye shall eat of it . . . The fruit of the fourth year, the Talmud terms, specifically, *Neta-rebai*; it is holy and must be entirely consumed in Jerusalem by its owners, as the second tithe is.—(*Tr. Maasser-Sheni, Mishna, 3, 1*): “No one shall propose to his neighbor: Take these fruits to Jerusalem and we shall divide there (that is mercenary). But he may say: Let us bring our fruit there and we shall eat there in company,” presenting each other with such fruit¹ (in token of conviviality and mutual courtesy). The intent was to bring the fellow-citizens frequently together in the capital, make them feel and act as countrymen, and thus foster patriotism and good-fellowship. Our American picnics are derived from that Judæan custom.

Maimonid. Yad, Zeraim, Hilkot Bikurim. THE FIRST FRUITS (I-V.)

The firstlings of the crops, man and beast, are put aside for the priests ministering in the Sanctuary, viz, part of the dough made up for bread, parts of the slaughtered animals, of

¹ לא יאמר אדם לחברו הוצא את הפירות ונחלק,
אלא שנאכלם בירושלים, נותנים זה לזה מתנות חנם

the shorn (lamb) wool, a redemption for the first-born sons, and for the first-born unclean brutes, 24 gifts in all, are donated to the priests as the portion of the *Aronidai*, all expressly mentioned in the Thora. Eight of these gifts are consumed by the priests within the court of the Temple; 5 within the walls of Jerusalem; 5 gifts within the boundaries of the Holy Land; 5 gifts in and out of the Holy Land; and 1 donation is received from the Temple. The first 8 gifts are most holy and must be consumed by the males only, within the sanctuary, as parts of the different sacrifices and offerings to the Temple; 5 are holy, and consumed within Jerusalem by the males (and females, too?), derived from other offerings of a second degree of holiness; 5 gifts to be consumed within the Holy Land are the Heave, the heave of the tithes, of the dough, of cattle and of wool; all of a third degree of holiness, destined for males and females; 5 gifts which the priests enjoy in and out of the Holy Land are the gifts of redemption of a first-born son, the first-born of an ass, the inheritance of a proselyte and *herem*, banned goods. The gift from the Sanctuary are the skins of the animal sacrifices.

(10) The firstlings of the ripening fruit shall be brought to the Sanctuary, as written expressly (II M., 23.19), during the existence of the Sanctuary in the Holy Land; also in Syria. These firstlings are to be given from wheat, barley, grapes, figs, pomegranates, olives and dates.

(17) One of sixty is the rabbinically fixed quantity. These firstlings are also called heaves—*terume*. V M., 26.1-11, brings the ritual and a most touching prayer which the farmer used to deliver in the Temple when he offered these firstlings (V M., 26.5): "A wandering Aramean was my ancestor; he emigrated into Egypt and became there a mighty people. But soon the Egyptians abused us and oppressed us, and imposed upon us very hard work. So we cried to our God, and He listened to our cry and brought us forth from that land with a mighty arm and with wonderful prowess; and brought us to this country, flowing with milk and honey. And now I came and brought

these firstlings of the land which Iahv has given me." He left the basket with the fruit at the altar, bowed deeply, retired and rejoiced over all the good things which God has granted him; he, his family, the Levite and the stranger. When the farmer arrived at the holy mount he took his fruit basket upon his shoulders, even the King himself did so, ascended into the *aula*, and with the basket upon his shoulder, he pronounced the above prayer in Hebrew. A most touching ceremony, indeed, it was; whilst the Levites sang the hymns of Ps. 30.2: "I exalt thee, O Iahv, who hast uplifted me." The farmer passed there the day and the night and then returned home.

(*Hala*) OBLATION OF THE DOUGH.

(Ibid., V, 1-5.) IV M., 15.20, ordains to give to the priest the firstlings of the dough. That is rabbinically determined to be about 4 of 100 of the family dough made up for bread. According to the Thora, only in the Holy Land is this duty incumbent. Now it is only rabbinical and usually burnt in the fire, there being no priest. (VII, 1): Whosoever slaughters an animal shall give to the priest the firstlings, cheek-bones and stomach¹ (X, 1). These are the priestly gifts. Further, he receives the firstlings of the shearing of the wool of the sheep, at least one-sixteenth part. (XI, 1) Also it is a duty that every Israelite in and out of the Holy Land shall redeem his son, the first-born, of his Jewish wife, according to Scripture (II M., 13,2,3; 22.28; 34, 22).—(15) The father brings the son to the priest, pronounces a benediction and hands the redemption money to the priest, the sum of 5 Sela (about \$3).—(12) It is again a duty to redeem with a lamb the first-born of an ass. This is valid in and out of the Holy Land.

Thus we find that rather heavy charitable burdens were imposed upon the Israelite by way of gifts and donations from the crops and the flocks, as legal dues, besides free alms to the poor, further as donations to the priests and the Levites. Here also patriotic conviviality is aimed at. Next comes the first part from

ראשית הגז זרוע, לחיים והסיבה¹

the dough, from the slaughtered animals, the shearing of the sheep, redemption of the first-born son, and of the first-born ass, etc. And these were not simple recommendations, rules of desirable free charities. No; they were laws, commandments, dues, ordained by God and enforced by the State, whose transgression was punished with 39 stripes, and the blessings of God invoked upon their fulfillment. Such charity, sympathy and solidarity no ancient society and religion, not even Egypt and Babylonia, can boast of—all this in the name of Judæan Monotheism.

BENEVOLENCE TO STRANGERS ; CANAANITES.

We have treated of the legal and the benevolent laws for priests, Levites, the poor, etc. No less anxious is the Mosaic Law for kindness and fairness towards the stranger. Hundreds of times is he recommended to the protection, the consideration, the benefaction of the Israelite and placed under the sacred ægis of the law. "One law there shall be for the indigenious and for the stranger among you (II M., 12.19); ye shall love the stranger, for such you were in Egypt (V M., 10.19); the stranger thou shalt not over-reach nor oppress, for strangers you were in Egypt (II M., 22.20); you should know the feelings of the stranger (and sympathize with him) (II M., 23.9); God is the guardian of the strangers (Ps., 146.9)." No doubt, we find among the ancients the Deity designated as avenger and protector of the stranger. Sympathy is human, not national, pervading all countries, ages, races and creeds. God is often termed *Zeus Xenios*, and frequently alluded to as such, especially in Homer (Homer's *Odyssea*, VI, 207): "For under Zeus' protection are all the strangers and beggars. The gift is small, still it is lovely. Well, then, you good maidens, give the stranger food and drink and have him bathe in the river" . . . Again we read there (VII, 159): "O Alkinoos, it does not become thee, nor is it fair, that a stranger sit at the hearth in the ashes. Please have the stranger rise and take a seat upon a silver arm-chair. Then command the heralds to mix again the wine, that we may make a libation to the thunder-rejoicing Zeus, who

shields the respectable, protection-needing strangers. Then let the waitress offer to the guest from our house-provisions." Similar tokens of kindness we find there (VII, 181), and in many places more in Homer and other Greek writers.¹

But in Mosaism the duty towards strangers is most salient, actually pervading and permeating its legislation as air and light are in the space of the universe. There alone, the *Ger*, the Gentile stranger, casting his lot with and seeking protection with and under the Mosaic Law, is ever and always put on a par with the Jewish poor, orphan and widow, in hundreds of positive verses, and the rabbis have mostly continued in that polity. Whilst among the other nations, in fact and in reality, not in poetry, a stranger was an enemy, beneath the Law, the prey and booty of the first comer; if weak, poor, homeless or stranded he was enslaved and generally without any rights whatsoever. And that is not today fully righted. Everywhere the stranger is taken advantage of, to say the least, and such selfishness is dubbed as patriotism! Today Anti-Semitism is fain to decry the Jew, living in Europe longer than most other races, nearly for 2,000 years, and participating in all the burdens and labors of the country. It depicts, decries and stamps him an *alien*, and not entitled to any rights. Leviticus, 19.1, includes him in its highest ideal: "Ye shall be holy, for holy I am, your

¹God is often termed Zeus Xenios and frequently alluded to in Homer. *Odyssea*, VI, 207:

Pros gar Dios eisin apantes
Xeinoi te ptochoi te, dosis d' olige te file te.
Alla dot', amphipoloi, xeino browsin te, posin te
Lousate t' en potamo, oth' epi skepas est' anemoio . . .

VII, 159:

Alkino', ou men toi tode kallion oude eoiken,
Xeinson men chamai estai ep' eschare en koniesin . . .
All 'age de xeinson men epi thronou argyroelou
Eison anastesas, sy de Kerykessi keleuson oinon epikresai ina
kai Di. Terpikerauno speisomen
osth' iketesin am aidoiolsin opedei . . .

The same there, VII, 182.

God," enumerating the great human duties it winds up with: "Thou shalt love thy fellow-man as thyself;" and, continuing the theme, the Lawgiver says: "When a stranger lives in your country, ye shall not vex nor press him, treat him as a fellow-citizen; indeed, thou shalt love him as thyself, for strangers ye were in Egypt." (Levit., 19.2-18.33.)

TOLERATION AND CANAANITES.

"Holy shall ye be, for holy am I, your God. . . . Remember the poor. Love thy fellow-man. Love thy stranger as thyself." Muster all the entire ancient literatures and positive legislations, you will nowhere find such broadly humanitarian verses; not in Manu, Menes, Solon, Lyeurgus, Hammurabi, XII Tables, Codes of Justinian, of Charlemagne, or Napoleon. Here is the criterion and proof divine of its inspiration. This is Mosaic doctrine, subsuming in a few verses all man's altruistic duties and all human holiness. When a heathen desired to compress into one sentence the contents of all the Thora, Hillel the elder pointed to that very verse. Jesus taught: "Love thy enemy." Buddha inclined also in that exaggerated direction. So did Spinoza, too, because all these teachers were disenchanted. So they sacrificed the actual world for a Utopia; all aspired to improve the world by the "Kingdom of Heaven." That kingdom of heaven, alas! is still in heaven, and God alone knows when it will be on earth. Many a millennium may yet pass. The masses move still very slowly and human nature is still selfish and shortsighted, "still subject to error, given to assinity," according to certain philosophers.¹

God's kingdom was the ideal of all times, aspired to by Gentile and Jew. You also find it in the Jewish daily adoration prayer, *Oleinu*, by Rab (III. Century post C.). It reads: "Therefore we hope to thee . . . soon to see Thy glorious all-power cause all forms of idol-worship to disappear, and to improve the world by the kingdom of God."² . . . The kingdom of God

¹Malebranches said: "L'erreur est la cause de la misere des hommes." Montaigne said: "Tout vice vient de l'anerie."

לחקן עולם במלכות שדי

with universal self-sacrifice is a lovely Utopia, and perhaps even not altogether desirable, as expressed by Buddha, Jesus and Spinoza. While sober Mosaism is not given to Utopias and impossible ideals. Realistic Mosaism teaches but: *Love thy neighbor as thyself.*

Or is it true, what Nihilism and Anti-Semitism claim, that the Bible with Judaism are entertaining malevolence and prejudice against any other sect or race, except their own? Is it true that "*Thou shalt love thy neighbor as thyself,*" applies not to man generally, but exclusively to the Jew? Our present Biblical studies show this to be a calumny. The Sacred Writ, formally, is no doubt national, sectarian, Judaic; but, in essence, it is broadly humanitarian. But did not Mosaism proscribe the Canaanites, the aborigines of Judæa? It did so, not on account of their foreign birth and creed, but because of their abominations, their unnatural vices, their rottenness, in body and in mind. Remember their gods and goddesses, *Baal* and *Moloch*, requiring the ghastly burnt-offerings of men and children. Think of *Peor*, *Ishtar*, *Astaroth* and *Apis*, with licentiousness as their divine worship. Our Lawgiver had to erect his *cordon* of quarantine against contagion, against those corrupt Greek, Egyptian, Phœnician and Babylonian cults and immoral, sensuous civilizations. It was dictated by self-preservation. Samson had his Delilah, and came to grief for it. The Qanite, heroic *Jael*, and the Moabite, suave, humble and pious *Ruth*, were not of the country and race of Israel; nevertheless, the Bible approves of them; yea, adopts and glorifies them; whilst the treacherous Delilah, Athalia, Jezebel, all are held up to contempt. The difference between them was not in country, race and creed, but in character and personal virtue.

EDOM—ROME, THY BROTHER.

Let us quote pregnant texts in corroboration of our theme, and elucidate the sense: "A stranger thou shalt not aggrieve or press, for strangers ye were in Egypt;" "A stranger thou shalt not oppress, for ye should know his mind, ye were strangers in

Egypt;" "On the seventh day thou shalt rest and let rest thy slave and stranger" (II M., 22.19; 23.9; 23.12). Does that sound like foreigner hatred, or rather thrilling sympathy with suffering fellow-man? (V M., 23.8): "Thou shalt not hate an Edomite, for he is thy brother; thou shalt not hate an Egyptian, for a stranger thou hast been in his land."—Curious! Egypt is remembered hundreds of times with so much placability! Egypt, saved by a Hebraic Vizier, giving his clan hospitality and soon turning the hospitality into bondage, handling it with the scourge for building her fortresses, throwing its babes into the Nile, the Midrash claiming even its children used as bricks in the walls—this Egypt is remembered only for good! Still more wonderful is the placability towards Edom. Edom, Israel's millennial foe, and the Egyptian, his cruel slavemaster, are termed brothers, and hatred towards them is deprecated by divine Commandment, and the Rabbis counting it among the 613 Commandments (*Maimonides, Yad, Mada*, Introduction) of the Thora. Let us dwell some time on this pregnant verse: "Thou shalt not hate an Edomite, for he is thy brother." What a noble placability! What a broad magnanimity! Consider what a gloomy, painful tableau does not the word *Edom* conjure up before a Jewish mind and vision! What sighs, tears and blood does not that single word compress! All Judah's millennial martyrdom looms up as the prophetic ghost of *En-dor*, at the spell of *Edom*, since the Patriarchs to our own times! Nevertheless, the Sacred Writer calls him "*brother!*" Edom is the by-name of Esau, Edom-Esau, the brother of Jacob-Israel. Remember the gloomy legends of strife at their very first stage of embryonic existence; strife at the threshold of life; strife for the birthright; strife as distinct heads of clans, and strife as diverse peoples, civilizations and doctrines, to this day! The Maccabean heroes believed to have extinguished that feud—in vain! The Herodians were Idumeans, and rose upon the ruins of the Hasmoneans. The Herodians later, as the satellites of the Cæsars, entailed the name of Edom upon ancient Rome. Rome is termed Edom in Jewish legendary and Midrashim. That

name is the dismal Elias-cloak which the bloody Herodians dropped upon the shoulders of the yet bloodier Cæsars. Edom, the legend leads back to red¹ blood; the cruel Idumeans were the forerunners of the cruel Cæsars and of Mediæval cruel Rome, the authoress of the cruel Crusades and of the Ghetto. Storms of sighs, rivers of tears and oceans of blood are evoked by the spell of Edom-Rome; Jerusalem was in ashes, but seemed to resurrect and be regenerated in Rome. Was now peace? Was now the feud between the twin brothers settled? Not by far! Patrician and imperial Rome was conquered, but hierarchical Rome sprang up, bitterer than ever, and the feud between Israel and Edom raged on, on to our own present days; Anti-Semitism is the youngest offshoot of old ruthless Edom. Now, these bitter and sad facts, this solemn and bloody tragedy before his mental eye, embracing the world of space and millennia of history, the Biblical composer sits down and writes: "Thou shalt not hate an Edomite; he is thy brother." Can anyone still say, Israel is implacable and entertains but race prejudice?

HUMANITY IN SYNAGOGUE AND IN CHURCH.

Let us contrast the humanity of the later Synagogue, the Hebraic Church, and that of other creeds. The Mosaic doctrine is: "One law there shall be for you and for the stranger" (IV M., 15.16). "The stranger thou shalt not vex or oppress, for ye were strangers in Egypt," is frequently repeated. The Edomite and the Egyptian are brothers, and their descendants are admissible into Israel's Congregation. "The (Non-Hebrew) slave fleeing from his master, shall be not only not extradited, but actively sheltered, befriended and protected" (V M., 23.16). The non-Jew, when impoverished, shall be encouraged and no interest taken of him (III M., 25.35). "Thou shalt rise before a gray head," (III M., 19.32), expounded the Rabbis, "before a Gentile, too." The thousand injunctions for gifts to the poor, declares the Talmud, applies to Gentile poor, too (see above on poor-laws). The duty of politeness, urbanity, veracity, strict

¹ אדום, דם (Genesis) מן האדום האדום הזה

honesty is especially enjoined towards the non-Jew (Agada). "The virtuous among the Gentiles will participate in eternal life," is Rabbinical dictum. Paradise is no privileged place. Gentile sages are everywhere respectfully mentioned; their virtues are not "shining vices" in the Talmud, as they are termed by the Church Fathers. Thus Judaism discriminates against no creed or race in regard to civic rights, to human rights, to benevolence, sympathy, charity and the hope of eternal beatitude. Right and good standing depend not upon official creed or birth, but upon deed and personal merit. With all its austerity of discipline and interminable sectarian ceremonies, *the Jewish Church is tolerant. It has never taken a single man's life or confiscated an estate on account of heresy.* The Pentateuch ordains, in cases of active idolatry by an individual or an entire community (V M., 13.10 and 16), that such shall be put to death (or *banned—herem*), they and all their goods destroyed and extirpated, root and stem. But the Talmud mitigated and hedged in the severity with such an array of requirements, witnesses, warnings and detail of circumstances, following up the letter of the law, that it is simply impossible ever to inflict that punishment of the *Ban*. Such an archaic Statute remained therefore a simple admonition, good to deter from apostasy; not to be abused by cunning priests for the destruction of innocent people who differ in their opinions or in their interests from the established church. The condemnation of Jesus of Nazareth for heresy by the *Sanhedrin* is a fiction, a legal impossibility. His crucifixion was concocted by the Herodians and the Roman Procurator. The Gospels allude to the fact that then the Jews had no longer any capital jurisdiction. According to the Talmud, only a free Sanhedrin can decree capital punishment.

Now, contrast with that the doctrines of the hierarchs: "All those out of their own pale must go to hell forever and ever. Abraham, Zoroaster, Lao-Tze, Socrates, Buddha, can expect no better treatment at their hands. All men, by the hundreds of millions, who lived before their churches came into existence, are

doomed to everlasting fires. None can escape except those passing their narrow door! Remember their religious wars, their funeral pyres, crucifixions, their extirpation of sectarian antagonists; Charlemagne offering the Saxons his creed, or drowning in the Vistula; the Gothic fanatical rigors in Spain; the Albigenses, ruthlessly extirpated by Montfort, abetted by Rome; the 175 years' lasting eight bloody Crusades, costing Europe alone two millions of soldiers; the expulsion of the Moors and of the Jews from Spain; the wars of the Reformation in England, Germany, the Netherlands, Bohemia, France and England, for two centuries converting Europe into a slaughterhouse; the French Bartholomew's night; the hundred thousand *auto-da-fes* of Moors, Jews and Protestants in Spain, Italy and the Netherlands; the treatment of Dissenters in England and of Quakers and witches in America. Compare that with the Synagogue, and say whether it is wise on the part of hierarchs and Anti-Semites to reproach Judaism with intolerance of race and creed? whether people living in a glass house should throw stones upon their peaceful neighbors?

USURY AND INTEREST.

But V M., 23.21, states¹: "Take interest of the stranger, not of thy brother." Is that not discrimination, foreigner-hatred, usury and intolerance? This and kindred verses have been frequently urged against Mosaism and the Jews in general. It has been a fruitful theme of reproach and vituperation; yea, of bitter persecution and bloodshed. But neither etymologically, exegetically or historically, it is well taken. The real sense is: "Of the stranger (the non-Judean, not the non-Jew) thou *mayest* (not shalt) take interest, not of the native." The discrimination is not against the non-Jew, but against the foreigner; it is not a sectarian but a commercial consideration, as we shall see. The misunderstanding originated in the fact that the verse was taken out of its context, and not considered in connection with the historical circumstances and surroundings. It reads (V M., 23.20

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and 21): "Thou shalt take no interest, or usury, of thy brother; interest of money, or of eatables, or of any other thing lent on interest. Of the alien thou mayest take interest; not of thy brother; that the Lord may bless thee." Again we read in III M., 25.35-38: "When thy brother will grow poor and decline in his fortunes, thou shalt assist him, be he a *stranger or inhabitant*; let him live with thee. Thou shalt take of him no interest¹ or any kind of profit; fear thy God and let thy brother live with thee. Thy money thou shalt not give him on interest, nor thy eatables on profit, for I, Iahv'eh your God, have brought you out of Egypt and given to (all of) you the Land of Canaan." Let us further quote these cognate verses, all helping to elucidate the correct sense of the Lawgiver. (V M., 24.10-14): "When thou lendest some loan to thy neighbor, do not go into his house to fetch his pledge, but remain outside of his house and he shall bring thee out the pledge And if he be poor, beware not to go to sleep holding (with thee) the pawn, but return it to him at sunset that God may bless thee and account it as a righteousness." In these passages the Law forbids all and any interest, usury or profit upon money or goods. Here is not the question of business, commercial or industrial, in goods or money speculations. No; the legislator has here in view his own people and his own times; viz, a nation of farmers and cattle-breeders, humble and laborious, without large industries and commerce; cultivating their own family-acre as their unique resource. Now come drought, or flood, locusts, frost or hail-storm, and the crop is destroyed; or sickness, war and captivity, and the farmer with his family are ruined and on the brink of starvation. Then the *pater familias* comes to borrow, and the Law bids: "Thou shalt take no interest or profit of thy starving neighbor, but *encourage him, that he be enabled to live with thee* be he a fellow-citizen, stranger or resident." Here, when the man borrows, in

¹Interest or usury means simply profit for usage of money or goods—anything above the capital loaned. It is but later that these terms were differentiated.

distress, not for speculation and profit, the Law expressly and emphatically makes no discrimination between native and stranger, Jew and Gentile. The same humanity is due to all. But Judæa was adjacent to Phœnicia, Mesopotamia, Egypt, etc., all highly industrial and commercial countries; when they came to Judæa to borrow, that was for the sake of speculation and profit; hence such a trading, foreign borrower, not a poor Gentile, but an alien merchant, a speculator, in money or goods, he could and should, in all justice and fairness, pay interest on his loan; therefore it states: Thou canst take interest of him, make profit on him; he (the foreign merchant) can and will allow you interest for using your money. Is here not a perfect accord of altruism with egoism? Is not money a necessary element of speculation and profit, and should the lender not have a share in it? Of course he should, and that is the sense of the verse; not at all discriminating between Jew and non-Jew, but between a poor borrower and a foreign speculator.

Now, compare this arrangement with the Egyptian, Roman or Greek conditions and communities. Here, we have above seen, were *two* classes, one exorbitantly powerful and rich, the other wretchedly poor and weak; hereditarily wealthy and chronic paupers, born aristocrats and plebeians; the one class was ever, as a rule, lending; the other habitually borrowing. The interest was usurious and crushing; the privileges of the money-lender boundless; the debtor was kept under the heel of his creditor. When insolvent he was pitilessly delivered to the lender; he became his bondman, he and his cattle and his wife and children—all became his absolute property. He and his family could be sold as slaves; he could be mutilated; he was out of the pale of the law; his creditor could cut and sell him by piecemeal. Such it was in the ancient civilizations outside of Judæa.

CREDITOR AND DEBTOR IN MOSAISM AND TALMUD.

Otherwise is the Biblical law. The insolvent debtor is bound to pay; his chattels can be taken in pledge. But his person, his freedom, his life, his wife, his children and the necessaries of

life cannot be taken from him. (V M., 24.6 and 11): "He shall not take in pledge the millstones," for that would be pawning life. Life, and what belongs to it, was out of the creditor's reach. Life was pledged for life, not life for goods. Here is the principle of exemption in favor of the debtor. Even the criminal's life was guaranteed by law. (II M., 22.1): "If the thief be found in breaking into the house and be killed (by the owner), there is no murder. But if in daylight¹, there is murder (to kill him). The thief shall pay for (his theft), and if he has not, he shall be sold for (the amount of his theft)." Human life, be it of the debtor or even the thief, was sacred and beyond the creditor's reach. The debtor and the thief must work, and the wages go to the creditor. But every seventh year comes the year of *Release*, and his debts become extinct. The seventh year's Release sweeps away all chronic indebtedness. There is no imprisonment for debt, no loss of liberty, or of family, or of limb. The freedom, the life, the farm, the wife and children of the poor, are never at stake. If he had stolen or robbed and is incapable of indemnifying the wrong party, then the Court may sell him into servitude for *six years*, not longer. The *year of Release*, arriving, restores him to his liberty, his family and his acre, which are and remain inalienable; his human dignity is above all vicissitude. His house is his castle, his wife and children, his widow and orphans, can never be taken, sold or pawned. Here is the *Habeas Corpus* of the Biblical State. In Rome and Athens he and they became alienated, the property of the creditor; they could be separated and sold as so many sheep. The Judæan community ever guaranteed the principle of liberty, humanhood and brotherhood, as the necessary outcome of the universal solidarity of the brotherhood of men and the fatherhood of the One God-head. A citizen in distress was not given up as a lost sheep; hence the Lawgiver enjoins: "If thy brother will improv-

¹אם זרחה השמש עליו אין לו דמים Rabbinal tradition interprets the verse otherwise; I venture to follow the plain sense, in full keeping with the spirit of the Mosaic Legislation, that life is above property, that the thief is still a brother, and his life to be protected—a luminous view, not reached yet even in our times, the age of democracy; that is sublime.

erish and decline, thou shalt encourage him, be he a stranger or a resident (Gentile or Jew); let him live with thee, take no interest or any other advantage of him; be afraid of God And if thou pawnest him and he be poor, return him the pawn at each sunset, that God may bless thee." What a broad sympathy with all phases and strata of human misery! (For further elucidation see "Spirit of Biblical Legislation," Part II, 51-72.)

SHYLOCK. JEWISH AND ROMAN LAW.

Thus we have seen that whilst Mosaism and Talmud stand up for rigid justice and guarantee property, they nevertheless guarantee too the human rights of the debtor. They allow no imprisonment for debt and no sale of his person, his wife, his children, his farm, his tools and his necessaries of life; at the Release Year his debts are totally cancelled, and he is free and begins to work for his own and his family's benefit. What an immense superiority over the Laws of Hammurabi, Solon, the XII Tables, the Code of Justinianus, of Charlemagne, or even of Napoleon!¹⁷ Nevertheless, in the face of such striking originality and such humane and sympathetic legislation, of such broad charity and solidarity, malice and prejudice have ruthlessly and unblushingly tried to fasten upon it the reproach of combined plagiarism, cruelty, intolerance, usury and foreigner-hatred, in their personification and embodiment, Shylock, in the known play by Shakespeare. Let us remain equanimous and quietly consider: Can there grow up a Jewish Shylock upon such a soil? Can such seeds, roots and culture grow such a poisonous plant? Shylock, insisting upon a pound of flesh from his insolvent debtor? For the honor of humanity, let it first be remarked that never such a hyena in human form has existed in any civilized society, and that hyena should have been suckled at the breast of Judaism? That is impossible! That is absurd! Shylock is not a Jew, nor even a human being. He is a fiction, a stage creature, to amuse the mob. He has no Jewish instincts, no Hebrew and no human soul, and what he asks for is not Jewish law, not his Biblical right. No; his heart is filled with fiendish gall and heathen revenge; he is mad with bitter passion, and his "*pound of flesh*" is granted him,

¹⁷ "Napole'on" approaches often the Mosaic one, because it is based, if at least on human equality. Otherwise they differ; for the one is the law of a conqueror, the other of a liberator.

not by the Law of Moses or the Talmud, but by the old *Roman Law*, by the XII Tables of the Decemvirs, fully elaborated in the Codex Justinianus and then in force at Venice, the scene of Shakespeare's Shylock. Here is the soil and the gardener that grew that poisonous monster. The Roman Code, indeed, allowed the surrender and mutilation of the insolvent debtor. Whilst the Mosaic Thora ordains forbearance and mercy. The Rabbis recommend (*Maimonides Yad, Mada*) even "not to pass his house or angrily to look at the poor debtor, for fear of aggrrieving and shaming him." A people taught not to enjoy of animal blood—will ask for human blood? Fie upon such mean slander! The playwright simply yielded to his spectators, to the ideas of his age, and gave the role of Shylock, contrary to the legend, to the Jew. Still, his conscience revolted; he felt the impossibility of the character; his honesty and his genius strove to render historical justice by the backdoor. He represented Shylock not only mad with exasperation and revenge, but justly and legitimately mad. He showed him as a man in whom all feelings and rights of humanity had been wounded, in whom all instincts of manhood and fatherhood had been trodden underfoot. He had been berated at the Exchange, buffooned and brutally wronged in the City; had been called odious names, kicked and spat upon in the streets; his only child was beguiled and corrupted and made to elope with her seducer and his money; thus his human heart had been soured and poisoned, his sympathies perverted and galled. During a lifetime brutally treated, he became a brute. Therefore it was perfectly natural in him to act as he did—as a hyena—because his tormentors had, by their maltreatment, turned him into a hyena; they reaped what they had sown—that is ever the result of racial oppression; the minorities are what the majorities make of them.

Such is the Shylock of Shakespeare, though entirely different from reality, even from the legend, as we shall see further on. Now, behold the height of prejudice and malice, with the superlative of absurdity. Here is, on one side, Israel, a race and

civilization of 4,000 years' standing, teeming with superiority, with men of genius, of ethical and mental heroism, with self-sacrifice and altruism, bringing forth the noblest literature, producing the three world-religions, standing in the forefront of history, with a fine share of initiative in almost all the great departments of human activity, symbolized, as the Messiah of mankind, with a purple dipped in his own blood, with a crown of thorns on his brow. On the other side is a work of fiction, with a fictitious, unnatural, impossible role, a maniac, asking for his gold or a pound of human flesh, and in this raving usurer, prejudice and malevolence recognize that millennial people, that messianic Israel, Shylock to be Israel's type! Prejudice declares that not Abraham or Moses or Isaiah, not Jesus, or Paul, or Hillel, or Mendelssohn or Moses Montefiore, but that impossible maniac, Shylock, is to be the "representative of the Biblical people"! Add to this that the original legend of Shylock is the very reverse of Shakespeare's. It is the Jew who is the insolvent debtor, and of him his hard creditor asks a pound of flesh; and the Pope, before whom the case is brought, saves him by the same cunning as *Portia* saves Antonio. Upon that legend was later constructed an Italian ballad, which, agreeable to the notions of mediæval times, reversed the roles and characters, and gave to the Jew the part of asking the pound of flesh and to the Christian that of the insolvent debtor. Shakespeare had to follow the same line in order to please his audience. Still had he the good sense to show that Shylock had been bitterly wronged and exasperated and that his reason was gone, alienated by mad revenge; that he was rather the victim than the author of mischief. Nevertheless, the mob clings to the idea that "Shylock represents the Jewish people"! The fact is, he represents no people and no class of people, none else but a yelling hyena, mad with the rape of her young, chasing after the hunter who had perpetrated the deed. Mad and raving as that dehumanized maniac is, still he is the pivot of the play, who, under a hideous mask, appeals strongly to the sympathy of the audience, which, in spite of mediæval preventions, feels with humanity outraged

in that man and turned to a monster. Shakespeare's version of Shylock offers the delineation and the genesis of the peculiarities of the Jew of fiction and of history. Indeed, with a deep insight into the state of mind of the Jew of history and reality, the English playwright offers us the clue to the "*peculiarities*" of the fictitious Jew, as imagined by the populace. Both have their source in the treatment he has been receiving at the hands of his neighbors and country; they are the result of his social status, the impress of his surroundings. History, psychology and romance show him to be the author of his virtues and the victim and unfree imitator of the vices of his oppressors. These, not he, are to be justly blamed for his defects. A greater master still than the English poet, and long ago, has expressed the same opinion in his terse, cutting sentences: "Like a wild offshoot without form or beauty, despised and decrepit, did he bear our diseases . . . was he wounded for our iniquities . . . and through his bruises was healing granted unto us" (Isaiah, 53).

Let us hope the present study will help to disarm sectarian and racial prejudice, and induce men to think more and berate less. Let us hope our fair, free, American country will yield no standing-room to spiteful prepossessions. Let us hope the scores of races and creeds living fraternally under the protecting wings of the United States' Eagle will study more accurately and carefully and entertain but kindly regards for that remarkable people which, since hoary antiquity to this day, has been such a mighty factor of civilization and has given birth to so many of the brightest men, ideas and institutions benefiting mankind.

CHAPTER III.

The Negative Benevolence Laws of Mosaism.

We have divided the Mosaic Laws on humanity and sympathy into positive and negative ones. The positive ones ordain actual, beneficent deeds, requiring a sacrifice: Give part of thy crops, of the produce of thy flocks and industry to the needy; associate them to thy table on festivities, forego their debts, let them and their family-acre go free at stated periods etc. We have discussed these positive Mosaic Charity Laws. The second set of such laws, we have seen, are of a negative nature: Do no harm, interfere not, be not in the way of thy neighbor, live and let live; do not take advantage of his weakness, crush him not by unequal, unfair competition, by artificial, social, not natural, advantages. "Do not unto thy neighbor what thou wouldst not he should do unto thee;"¹ he, too, has a right to life and the pursuit of happiness. Moreover, we have seen that these negative, beneficent laws are more important than the positive ones, that society has more interest in plain justice than in charity; in preventing usurpation, selfish interference and active wrong-doing, than in positive altruism, donations and self-sacrifice; that these are really but palliatives, but a partial and impotent making-good of the havoc done by the first. If no outright wrongs were committed, if everyone would have his due, very rarely would anybody need anyone's charity; if the negative laws would be observed, the positive ones could be dispensed with; if no supplanting, artificial influence and unfair patronage; if no cunning, lying and slandering, if no over-reaching, stealing and robbery, there would be little need of the so-called philanthropy and almsgiving; no need of homes, orphanages, poor-houses, hospitals, asylums, work-houses, correction-houses etc. Free competition is just, conducive to the welfare of the majority, and gradually of all; but unfree, artificial competition favors the minority and ruins the majority. There may be higher ideals; still, for the time being, honest and free competition is good enough; let merit have its reward. But under the guise

¹Hillel's version of the Golden Rule.

of competition, patronage rules; nepotism and favoritism produce plutocracy and pauperism, which in the end ruin the community and render freedom and equality a sham, just an opportunity to sell the poor man's vote and pave the way to despotism. The history of Rome, Athens, Corinth etc., not to mention any modern examples, illustrates that to clear-sighted thinkers. Now, let us follow up our theme along II M., 22. etc., and analyze those numerous verses bearing upon the Mosaic Negative, humanitarian laws, those which ask for justice, not charity; let alone and interfere not. Some of these verses we have alluded to, in anticipation, but we shall now set them forth in their full light and force, illustrating the Mosaic idea: More right and less charity, justice to all; aid, pity and mansuetude to the unfortunate and the oppressed; just punishment to the criminals and the wicked.

THE STRANGER.

(II M., 22.20): "And a stranger (a foreign, non-Israelite, in Judæa) thou shalt not over-reach,¹ or oppress, for (remember) strangers you were in Egypt." What magnanimity, what sweet sympathy, what broad and cloudless humanity! Three thousand years ago, when each township, clan, temple and speech was so exclusive, when "stranger" was synonymous with enemy, and an enemy was out of the pale of the law, rightless, the first comer's booty, though poetically Zeus was complimented as "Zeus Xenios, the benign protector of strangers,"²—that was a

¹תוּגַהַּ, vex, over-reach, aggrieve, take advantage of, since he stands alone, an "outsider."

²Homeri Odysseæ liber VI. 206:

All' ode tis dystenos alo'menos enthad; ikanel ton nyn chre komeein. Pros gar Dios eisin apantes xenoi te ptochoi te dosis de oligè te file te'. Alla dot' amfipoloi xaino browsin te . . .

Homeri Odysseæ VII. 30:

All ithi sige tolon, ego de odon egemoneuso. Mede tin' anthropon protiosseo med' ereine. Ou gar xainos olde mal' anthropous anechontai, oud' agapazomenoi fileous' os k' allothen elthe.

Ibid. VII. 41. E ra oi achlyn thespesian katecheue fila froneous' eni thymo . . . Here we see strangers to be greatly disliked and not safe in a foreign land. They need the special protection of the gods, their miraculous guardianship and interference, as also that of the sweet sympathy of womanhood to extend some help to a needy foreigner.

mere ideal. Really, the stranger and the shipwrecked were rightless. In Mosaism the ideal became an imperious, positive duty: "Oppress not the stranger, let him thrive by thy side!" But even today the Mosaic commandment is still an ideal, just as at the epoch of the Trojan war. At no time had we more of "nativism and foreignerism." England is for the English, Germany for the Germans," etc. Humanity alone has no home! At every step there is discrimination; in the street, the club and the party, in the politics, courthouse and Government halls. As the shipwrecked of old were the booty of the first comer, even so is the "foreigner" just now. Mosaism, 3,000 years ago, taught (II M., 23.9): "Press not the stranger to the wall. You should know how he feels! Were you not aliens once upon a time?" How well-aimed, how plain and outspoken! Anti-Semitism declares the Jew an alien, beneath the law; Mosaism says (III M., 4.22): "There shall be one right for you, as the stranger so the indigenou."—(II M., 23.12): "For six days thou shalt work and let thy factory go on, but on the seventh day have a rest, to the end that thy ox and thy ass, thy slave and thy stranger shall recuperate." How thrilling with sympathy for all—the enslaved, the ostracized, the dumb brute!

WIDOWS AND ORPHANS.

(II M., 22.21): "The widow and the orphan ye shall not oppress, for if you oppress them, they had but appeal to me, and I shall surely listen to their cry, and my ire will be enkindled, and I shall kill you by the sword, that your wives become widows and your children orphans." What an effective, realistic appeal to human conscience! It goes straight to the heart; it hits the vulnerable point, as William Tell's arrow goes to the heart of Gessler. Here is the obdurate, selfish, noble or plutocrat, callous to pity, justice and remorse. He takes advantage of the widow, he grabs her farm, corrupts her daughter and sends to the army her son. How can you reach him? God, conscience, pity, do not touch him. But he feels yet with his own wife and children; here is his vulnerable point; the Lawgiver appeals to that lonely spot of hidden humanity: I, the Almighty,

I am the husband of the widow and the father of the orphan, and if you spare them not My "far-reaching arrows" will reach you, and your wife and children will be widowed and orphaned; That may move him, if anything will! There is yonder a hard-hearted master of a factory, a moneymaker by nature, birth and trade. Still, he is an "honorable alderman." One of his over-worked workmen, dying at 35 years, leaves a widow and five orphans, with a small pittance as insurance, their only resource. He leaves them to the care and the guardianship of his employer, the "honorable alderman," who pockets the insurance and leaves the widow and orphans adrift, to want and shame. God is too far on high for him; hell and brimstone too far below. The courthouse has no terrors for the crafty and the strong. But now the "alderman" is spreading himself in his pew at church, and the manly preacher calls to his mind: "A widow and orphan thou shalt not oppress, for God's ire will enkindle at the cry of innocence; behold, tomorrow you will be in your grave, and your wife will be a widow and your children orphans"—that may bring him to a better sense of justice. I myself, in tender years, became a ward of such a guardian, such an honorable President of a Congregation, who left me in want during my minority and swore away my scant inheritance at my majority. The minister administering the oath at Court told me: "Surely, he will commit perjury!" Still, he had not the manliness of quoting to the wretch that effective text; he was too politic.

LOAN AND INTEREST RESUMED—NATIVE AND STRANGER.

We have treated of this theme. Still it needs some further remarks and elucidations.

(II M., 22.24): "If thou lendest money to my people,¹ to the poor, near thee, be no hard creditor, put no usury upon him." The verse emphasizes "to the poor near thee;" the borrower is thy neighbor, in distress and need, the money is to allay his poverty, not to speculate and make profit by it. Thus is all interest or usury prohibited. As mentioned above, Mosaism legislated for an agricultural and cattle-raising people, with hardly any larger industries or commerce. Its ideal was a theocratic democ-

¹The rabbis expound "My people, who is it? The poor are the people of God."

raey, with political, social and economical equality, work and property, but without plutocracy and pauperism; with a farm for every male adult, as the chief means of support, hereditary and inalienable; avoiding by all means concentration of lands, wealth and political influence. Nevertheless, by misfortune, vice and laziness, by drought, hailstorm, fire, locusts, war and other accidents, bad crops and poverty will ensue, and the poor man may need to borrow, then it is a virtue and a duty to lend him money or goods; to lend is even better than to give alms; to lend on easy terms, hence: "Be no hard creditor and exact no profit or interest." To make its sense perfectly clear, let us adduce III M., 25.35: "If thy brother impoverishes and declines in fortune, then shalt thou encourage him; be he a (non-Hebrew) stranger or a fellow-citizen, let him live with thee, take of him no usury or increase; fear God, and let thy brother live by thee." Here the law on interest is clear, fully supplemented and elucidated. A poor neighbor, be he a native fellow-Israelite or an immigrant non-Israelite, shall be assisted and money or goods lent to him, without interest or profit, and on easy terms, not to press him; for he is ever "thy brother, let him live by thee." We have seen above that this is by no means contradicted, but rather corroborated by V M., 23.20-21: "Take no interest of thy brother . . . of the alien thou mayest take interest, not of thy brother." Here is discriminated, not against another creed or people, but a distinction is made between an inhabitant of Judæa and one of Phœnicia, Arabia or Syria. Because these were commercial and industrial countries and nations, their inhabitants borrowed money or goods on speculation, hence it was fair and just to allow part of the profits to the borrower who commercially furnished the capital, the nerve and chief tool of speculation. So later, during the Second Commonwealth, when the Jews themselves had become largely commercial and industrial, occupying with banking, navigation, exchange and supply of commodities, the Rabbis, interpreting that usury-Law according to the intrinsic spirit, not the letter, entirely lost sight of any difference be-

נרול הלזה יותר מן הנותני is a Rabbinical rule of ethics.

tween Jew and non-Jew, and discriminated only between loans on speculation and borrowing when in distress. In the latter case all interest was usury and prohibited, as heretofore, without any difference of nationality and creed. But interest on loans of speculation was allowed. To save the authority of the letter of the law, a contract was simulated between lender and borrower, as partners in a business transaction, by which the lender renounced his share of the profits to be made in that speculation, in consideration of a stipulated fixed percentage of the sum lent. This simulated legal instrument was termed: "Business (and interest) license" *Heter Iske*.

EXEMPTION LAW.

(II M., 22.25): "If thou take (at all) thy neighbor's raiment in pledge, thou shalt return it to him at sunset, for that is his only covering, the raiment of his skin, whereon shall he sleep? . . . and if he cry to me, I shall hear, for I am merciful." The Legislator is here swayed by two opposite considerations, the right of the lender and the pity for the poor borrower. He pleads for the latter, appealing to the mercy of the former: You have a legal right upon the garment, but be merciful with poverty! That is sublime! A similar enactment is V M., 24.6: "No man shall take the millstone in pledge (for debt), for he taketh a man's life in pledge."

(Ibid., 24.10): "When thou lendest thy brother a loan, thou shalt not enter into his house to take his pledge . . . wait outdoors and he shall bring it out unto thee . . . And if he be poor, thou shalt not lie down with his pledge, but return it at sunset." A widow, even if rich, could never be pawned. A Hebrew enslaved is recommended as still being a brother, and no hard labor is to be imposed upon him¹. Even a Gentile slave was recommended to mercy, and if his Jewish master knocked out his tooth, the slave went out free. Setting him free was recommended as a noble charity (see Treatise on Slavery further on).

V M., 15.7, reads: "When there will be with thee a needy one, do not harden thy heart or close thy hand against thy poor brother, but open thy hand widely to him, and lend him liberally all he needs. Beware that thy wicked heart shall not hesitate and say, the Year of Release is near by . . . and with an evil eye thou wilt refuse to give him . . . No, thou shalt give him and God will bless thee for that . . . When thou lettest go free thy Hebrew slave, let him not go away empty-handed, furnish him liberally from thy flocks, thy threshing-floor and thy wine press. Remember, a slave thou hast been in Egypt and God has redeemed thee from there, therefore I ordain thee to do this." The Rabbis recommended warmly the charity of lending on easy terms, and if the debtor cannot pay, not uselessly to vex him; not to pass often before his house, nor to look askance at him, for fear of shaming him. When borrowing to the poor, do it with a gracious mien . . . Be not afraid that the Year of Release or absolute poverty will forfeit the debt. By such laws and recommendations they try to cope with inequality of fortune and to render pauperism less frequent and crushing.—(V. M., 15.1-11): "At the Year of Release let every master of debts forego his claim and exact it not of his neighbor and brother . . . that there may be no pauper near thee . . . though there will never the poor disappear from the land." No exaggeration, no dreams and Utopias; the legislator knows the world, with its woes and its struggles, and makes realistic efforts to mitigate them. Compare that with other ancient and even some modern codices; the exorbitant usury, the privileges against and pressure on insolvent debtors, the cruelties practiced even against his innocent family, and you will realize the superior humanity of Mosaism.

WHY MONEY-LENDING JEWS.

How, then, did it come to pass that Western Israel became so much identified with money-lenders and usurers? During the Middle Ages the Church felt some scruples to allow interest on money loans, emphatically prohibited in the Pentateuch. It failed to recognize the real sense, and discriminate between the circumstances and environments of the ancient Judæan legislator

and the later times, with radically changed individual and international relations, with vast industrial and mercantile interests and pursuits, by far more important than the agrarian and economical conditions of antiquity. The monastic leaders of the Church continued to thunder against usury, forgetting that the old Mosaic law already discriminated between loaning for bread and borrowing for speculation. At any rate, the money business was intimately bound up with many hardships for the poorer, borrowing masses. Now those theologians erroneously and naively remarked that the Mosaic Law declares: "Of the foreigner thou mayest take interest, not of thy brother." They clumsily and inaptly interpreted it in a sectarian, discriminating sense, viz: "Of the non-Jew thou canst take interest, not of thy fellow-Jew;" hence, they reasoned, the Jew is not forbidden to take interest of the Christian! Now, since they needed money-lenders and bankers, and since the trade of money-lenders was ever odious to the people, though indispensably necessary, they first *allowed* to the Jew and soon *compelled* him, to resort to the usury trade, from necessity first, and next, from the desire to make him still more odious. They drove and forced him out of every fair and lucrative activity, business, trade or profession, and legally drove and forced him into the odious pawn-broker shop, the usury business, using and abusing him as a leech or sponge to suck in the gold and then to squeeze it out from him whenever they needed that gold; all the while reproaching him with usury, while they had forced him into it and left him no other chance and no fair avenue to any decent livelihood.

THE RABBIS ON CREDITOR AND DEBTOR—*Maimonid. Yad,*
JUDGMENTS.¹

It is a positive duty to lend to the poor, and that is more meritorious even than to give alms. It is a negative commandment not to insist on payment if the debtor has not; nor to take a pledge of him without his consent, except so ordered by the

¹ הלכות פלוה וגוה'

Court. The creditor is bid to return the pledge to him when needed, every day or every night, just according to the nature of the garment. It is a duty not to take any pledge of a widow, even if rich; not to take in pledge the working tools or the bare necessities of existence;¹ not to take any interest or usury on money or profit on any goods; neither to give nor to take goods or money on interest; not to be concerned as brokers etc. in any business connected with interest. Between a Jew and a (mercantile) Gentile interest is allowed. The Rabbis knew of no (legal) rate of interest; any interest is usury whenever not legally allowed. A creditor exacting payment, though knowing that the debtor has not, commits a grave sin of commission. The creditor is forbidden to show himself to the poor debtor, nor even to pass before his house, in order not uselessly to shame him or make him uneasy. On the other hand, it is the bounden duty of the debtor to pay if he can; he shall not delay doing so promptly. An honest man shall not borrow and spend in a frivolous way; and whosoever acts so is a wrongdoer, *rasha*. All the property of the debtor, movables and immovables, are liable and subject to the creditor, even when pledged to his wife; only the most necessities are left for himself, his wife and children, as food for 30 days; raiment for a year and some scant furniture for the house. When the debtor is suspected of having hidden away some goods, neither the creditor nor even the Court-beadle shall enter his house without his will, the Law having expressly declared that the creditor must remain outside.² But the Court can make him swear and acknowledge whether he has or not put away any goods. All what he may earn and get possession of, belongs to the creditor, except his bare subsistence. If there are many creditors, the debtor hands over all he has, and additionally swears that he has nothing more left, and that must satisfy all the creditors at once. If he is well known as an honest man, even that oath may be dispensed with. Property belonging to his wife cannot be at-

אוכל נפשי¹
 בחוץ תעמוד²

tached by the husband's creditors (see Treatises Kethuboth, Nesikin, Baba Qama, Mezia, Bathra; they are summarily epitomized from there). It is remarkable how much the above coincides with the United States legal practice, whilst it differs so greatly with Old World laws, because the Rabbinical and the United States laws were enacted, both, in the interest of the people, democracy.

SHYLOCK AND RABBINIC LAW.

Above we have referred to Shakespeare's Shylock, and we wish to add here some further points connected with Jewish law. Shylock, a born Jew, is the creditor of insolvent Antonio, who ever before had Jewed him down, in mediæval fashion: "You berated me on the Rialto about my money and its use; called me cutthroat, dog, and spat upon my gaberdine . . . shall I now, with bated breath, say, Fair Sir, here is my money . . . for all these courtesies?" Now for once Antonio is in the grip of Shylock, as his insolvent debtor. Shylock, not receiving his money, asks for his stipulated fine, a pound of flesh from the body of the insolvent debtor—and this man with a Jewish mask is upheld as the type of a Jew, and his action as an outcome of Jewish Law! Compare this with the above verses and judge of this monstrous accusation. We have seen above that the nucleus of that drama is a Northern tale; a very old legend narrating just the contrary: A Jewish debtor being insolvent, his Christian creditor asks one pound of his flesh, and the Pope allows him the flesh, but not any blood with it, and thus he eludes the law. A later ballad elaborated that legend with reversed, more popular roles, viz: The Jewish creditor asking the pound of flesh. Shakespeare adopted this latter version, as more pleasing to the crowd. Nevertheless, he does justice to psychology, showing Shylock as much provoked by insults and malice, so as to make him madly revengeful. But the chief point is this: Shylock asks for a pound of flesh, not as a Jew, but as a Venetian; not the Mosaic Law, but the Roman Law, the Code of Justinian in force at Venice then, grants him that. According to it, the insolvent man is enslaved and may be muti-

lated, cut in pieces; hence the only way for protecting him is subterfuge, eluding the law: You are allowed *flesh, but no blood!* says the judge, Portia.

Now the reader well acquainted with Jewish Law will see that, had the Christian debtor appealed against Shylock to a Rabbi, he would have been reminded of: "Be no hard creditor on thy debtor and countryman; though a non-Jew, he is still, as countryman, thy brother," and Shylock, despite of all his mitigating and extenuating provocations, would have lost his case and paid the litigation costs. The fact is, the *Mosaic Law* is, doubtless, the most humane one towards insolvent debtors. Property is respected and protected, but never as high as honor, life and person are. The creditor may claim his debtor's chattels, his property and his work, never his freedom, his wife, his life, his limbs; not even for a day can he imprison him—practiced in Europe but a generation ago. His character of a free fellow-citizen cannot be shaken; he is and remains "a brother." It is but gradually that modern legislation is rising to this correct Mosaic standpoint of absolute human equality and dignity, an outflow of its practical leveling monotheism, with one humanity and one right. The "Code Napoleon" approaches it.

PROPERTY AND HUMANITY.

Let me again quote II M., 22.1, as another example of Mosaic forbearance and humanity in cases concerning attempts on property, which again shows its superior regard for human life and dignity: "If a thief be found while breaking in (to a house, underground), and he be smitten and killed, there is no guilt of murder.¹ But if so in broad daylight, that is murder! (for if the thief is not killed then) he is to pay (the value of the theft committed); and if he has not, he shall be sold for the amount stolen" (for six years at the utmost, but his life is

¹That interesting verse (II M., 22. 1-2): If a burglar-thief is smitten and killed, there is no murder; if the sun shines (in daylight), there is murder. That passage is casuistically interpreted by the Rabbis. The common-sense one is wonderfully striking, clear and just, both, property and life are protected.

safe). Here is a fine-feeling sense of justice, tempered with humanity and the right of property, not equalled even in our own times, all flowing from the democratic principle of Mosaism underlying its Code.

Of late there was a great hosannah shout concerning Hammurabi's laws, claimed to be the prototypes of the Mosaic Code, the Decalogue etc. Here is a striking, flagrant parallel (21): "If somebody breaks into a house through a hole, one shall kill him before that very hole and bury him therein."—(22. there): "If somebody commits robbery and is caught thereat, he shall be killed." Here we may judge of the immense contrast between the Mosaic and the Hammurabi Code. The Mosaic one never puts life at par with property. Life answers for life, never for property. Property's value varies with rich or poor; life, in a democracy, is invariable: The poor man's life is just as much worth as the rich man's. That is Mosaic axiom. Hammurabi gives away liberty and life for property, the conquering aristocratic principle. He is harsh to the extreme. Any misdemeanor is punished with loss of limb, death and slavery. Still they claim that Moses copied from the Babylonian Code!

Maimonid. Yad, Zeraim (H. Schemitta and Jubel).—

RELEASE AND JUBILEE LAWS.

(I, 1): It is a positive commandment to stop all agricultural, horticultural and arboricultural labors during every seventh year of the Hebraic cycle, as it is written: "The land shall rest, a sabbath to Iahv . . . from tilling and reaping it shall rest." Whosoever transgresses that has broken a positive and a negative commandment (III, 1). It is a traditional¹ law that such agricultural work shall be stopped thirty days before the beginning of the seventh year, for that may be considered as preparing the ground for the seventh year. But in our time of non-existence of the Temple, work is allowed to the very eve of the seventh year.

הלכה (משה מסיני)

(III, 2): Nevertheless, certain specified labors of agriculture are to be stopped thirty days previously, for decency sake.¹

(IV, 12): All that the earth produced spontaneously from seeds dropped before the seventh year is, by law, allowed for food. But the Rabbis forbade that in order not to induce any clandestine sowing, by prohibiting even the produce of spontaneous growth. Hence is allowed for food only fruit from trees etc., that require no sowing. . . . Even garden fruits and vegetables requiring mostly such culture are rabbinically forbidden.

(IV, 24): It is a positive commandment to give away freely all fruit that the ground grows (spontaneously) during the seventh year. The owner shall neither close up his vineyard, nor gather into his house its fruit, but he must give away all, freely, indiscriminately, and take only a small portion for his own family-use.

(25): The Release Year takes place only in the Holy Land, the Temple existing or not existing. Syria is rabbinically included therein, viz, not to work it in the Release Year, whilst Babylonia, Egypt, Ammon and Moab, though they are rabbinically tithable, are excluded from the duties of Release. Beyond the Jordan, Release holds good, rabbinically, just as in the Holy Land, but the spontaneous growth there and in Syria is eatable. (VI, 1): The Release-Year fruits of all kinds are not marketable (allowed for commerce); they are holy.

(IX, 1): It is a positive duty and commandment to relinquish all outstanding debts with the Release Year, as written: Let every creditor relinquish his debt;² and whosoever asks for payment of a debt over which the seventh year has passed, transgresses a negative commandment as well as a positive one.³

(IX, 2): The forfeiture and cancellation of the debt takes place, by law, only during the time when the Jubilee is practically valid and customary, when the soil, too, comes back freely to its original owner, be it in or out of the Holy Land.

¹ מפני מראות עין

² שמוט כל בעל משי ידר (V. M. 15. 2.)

³ עשה ולא תעשה the Bibl. Commandments of Commission (to do) and of omission (not to do) ar. 613, viz. 248 of the first, and 365 of the latter. So computed by the Rabbis.

Whenever the land is not relinquished in the Jubilee, the debts are so neither in the Release Year. Nevertheless, at the recommendation of the Scribes (Sopherim), the release of debts does take place now everywhere, though the Jubilee is suspended. . . . Debts are cancelled just at the end of the seventh year . . . Therefore who loans money during the seventh year can receive payment all the year long, and with sunset of the last day of the Release Year the debt is extinguished.

(6): The seventh year cancels the debt even when proven by written document. . . . But if a piece of real estate expressly guarantees it, it is not forfeited.

(9): When a sum is loaned out for a specified time beyond the seventh year, that year will not invalidate it (it is good after the Release Year).

(10): When the creditor made it a condition that the seventh year should not cancel the debt, it is nevertheless cancelled, because nobody can make any stipulation against the law. But if the creditor agreed with the debtor that he shall never cancel the debt, not even in the seventh year, then that stipulation or promise is valid, as everyone can bind himself beyond, not against, the law.

(11-12): The workingman's wages are not forfeited by the seventh year, except if he left them as a loan. The same is any judiciary fine and dowry. A loan on a pledge is not forfeited, either.

Who deposits his notes of assets or active debts at the Court of Justice, saying: Collect for me such and such debts; no forfeiture takes place. The same is when judgment for payment has been passed; it is not cancelled in the seventh year, because that is considered as if paid.

(16): When Hillel the elder saw that all-money loans are stopped (and commercial transactions impeded), he decreed the institution of *Prosbal* (prolongation of debts), by which instrument in writing, the cancellation of the debt was stopped. This *Prosbal* is valid only in the present time, when the Release is only rabbinical. While against the Mosaic Law, when restored, it is not valid.

(17 and 18): Only a superior Court of Justice can issue such a Proshal-document; a usual Court cannot. The formula of the Proshal reads thus: "I herewith deliver to you my assets, Judges, at N. N., declaring that for all the active debts I own, I reserve to me the right to collect them at any time I may desire." This is signed by the Judges or by witnesses.

(19): Some real estate must underlie, as a guarantee, such a Proshal-document.

(24): A creditor with a written note, but without a Proshal, has lost his claim. But if he affirms that he has lost his Proshal he is to be believed on his word, because he could insist on payment, even without any such instrument, in times of persecution and subjection to the Gentile Law

(27): Scholars loaning each other money need no Proshal, but a verbal agreement to collect the money whenever desired, since they know that in our times is the cancellation of debts but rabbinical, and is thus prolonged by mere word.

(28): Whosoever pays his debts after the Release Year, the Sages are well pleased with him. The creditor then must say to the debtor, I have long ago given up my debt; and the debtor is to answer, Nevertheless, take this of me, be it as a gift.

(30): Nevertheless, whosoever refuses to lend to his fellow-man for fear of the Release Year and forfeiture of his debt, is guilty of having transgressed a prohibitory commandment.

(X, 1-4): It is a positive commandment to count seven times seven years, and to consecrate the fiftieth, as the Jubilee. This only the Great-Sanhedrin can perform. Fourteen years after their entrance into the Holy Land they began to count the first cycle, and then celebrated a Schemitta (Release Year). After seven such cycles they celebrated a Jubilee. They counted such 17 Jubilees, when the First Temple was destroyed. Again, on the thirteenth year after the construction of the Second Temple, a Schemitta was celebrated. They then counted seven times seven *Schemittas*, and solemnized a Jubilee, though the *Jobal* was really no longer of any real, practical bearing (conform to the Mosaic Thora) during the Second Temple and after its destruction. (8): The Jubilee lost its

practical significance from the time that the Tribes of Reuben, Gad and half-Manasse went into exile. Because it is said: "Ye shall call freedom in the land to all its inhabitants,"¹ viz, during the time that all its inhabitants are in the land, each tribe on their inherited ground; only when the Jubilee is valid in the Holy Land, it is valid out of it. Only during the Jubilee many other laws connected with it, are in force; if not, not.

(14): Between New-Year and Atonement-Day were the slaves free, wreathed with flowers, living freely and making themselves happy.² With the advent of the Atonement-Day the trumpet was blown, the slaves returned home, and the farms fell back to their original owners (viz, during the Jubilee times). The soil of the Holy Land is never to be sold definitely forever. It returns in the Jubilee. But if it is sold expressly for sixty years, it is not becoming free in Jubilee. Nobody is to sell his farm except if he grows poor; never in order to speculate.

(XIII, 1-13): The Tribe of Levi, though it had no (regular, compact territory) share in the country, nevertheless had towns and suburbs for their dwellings allotted to them, viz, the six cities of refuge and forty-two towns, besides (scattered among all the other tribes). These surrounding suburbs and fields consisted of 3,000 cubits on all sides, from the city walls outside, viz, 1,000 cubits as free space and 2,000 for gardens, pastures and vineyards. The cemetery was over and above, beyond that limit. These proportions were not to be changed. The Levites had at any moment the privilege of redeeming their sold property, without limitation. Maimonides opines that of all the other conquests made after Joshuah, the priests and Levites had their share. The tribe of Levi originally had no special territory or district as its allotment, because they had been destined and set apart, expressly, from the other Israelites, for God's service in the Temple, to teach in his ways and pro-

קראתם דרור בארץ לכל יושביה. III. M. 25. 10—Jerem. 34. 8. 15. 17.

¹So were the Roman Saturnalia, on the 25th of December, as now in the West. So was the Babylonian New-Year, about the beginning of October.

nounce judgment. Therefore, they were to leave off all worldly concerns. They did not fight the battles, as soldiers, bodily, and had hence no share in the booty. They were the army of the Lord, and he provided for them, as written: "I am thy share and thy inheritance."¹ Even so, not only the Levites, but any man whose generous mind and cultivated reason have induced him to consecrate himself to divine service, to knowledge and righteousness, and throw off from his neck the yoke of worldliness, he is sanctified, holy of holies; God is his share forever and aye. God will provide him with the necessaries of life, here and hereafter: "God is my share, my cup and my lot."²

RABBINICAL SLAVERY LAWS. *Maimonides, Yad, Hilkoth Abadim.*

(1, 1): The Hebrew slave spoken of in the Thora is an Israelite whom a judicial Court has forcibly sold, or who has sold himself voluntarily, viz, when he had stolen and is unable to pay the principal, the Court sells him. This is the only case when the Court sells a Hebrew. When a man becomes very poor, then he may sell himself, but that is only to save himself from starvation, in no other wise.

(2): A woman, if even a thief, cannot be sold; nor can she sell herself into serfdom.

(3): A Jewish man can sell himself, or the Court can sell him, only to a Jew or to a full proselyte, never to a heathen or a non-Jewish settler, a half-proselyte.³ But if he did sell himself to a heathen, even to idolatry, the sale is valid.

(5): A Jewish man shall not be sold publicly, standing exposed on the block of sale,⁴ as a heathen slave does, but it must be done privately and decorously.

(6): It is forbidden to overwork and bedrudge⁵ a Jewish servant, or impose on him any too hard or any useless labor, just to keep him toiling.

אני חלקך ונחלתך¹

י"ה מנת חלקי²

גר צדק וגר תושב³

אבן המקה, בסימטא⁴

בפרך⁵

(7) : Nor must his master give him any work specifically belonging to slaves, as taking off his shoes, or assist him in the bath, but he must treat him simply as a hired workman, nor make him do any other work than the one he was accustomed to.

The Hebrew male and female servant must eat, drink, dress and live as comfortably as the master. . . . Therefore, the saying is, whoever buys a Hebrew servant, buys a master to himself and must treat him as a brother.¹

(II, 1) : The Hebrew servant or slave is acquired for money, goods or a written contract. If the Court has sold him, he leaves and goes free after six years, from the day of his sale, and the Year of Release does not cancel his servitude, whilst the Jubilee stops it at once.

(3) : A man selling himself for more than six years, even for ten or twenty, and the Jubilee steps in, his servitude is at once cancelled.

(4) : A fugitive slave must (return and) complete his six years' servitude. The Jubilee alone interrupts it.

(5) : If he was sick during four years out of the six, he must serve other four years, instead, but if his sickness lasted less than four years, he owes no further service beyond the original, stipulated six years.

(6) : Who sells himself to a heathen goes free with the Jubilee.

(7) : Who is sold to a heathen, his relatives shall redeem him ; if not, any fellow-Jew must redeem him.

(8) : A Hebrew servant for six or more years has ever the privilege of liberating himself by returning, pro rata, the part of the purchase-money paid for him, deducting the time he has served. If sold to a heathen, he has the same privilege to compute, pro rata, and return the purchase-money till the Jubilee, whenever he can dispose of the means of redemption.

(9) : If the Hebrew has, during his servitude, increased or decreased in value, according to the market price or to his personal condition, then (he ever has the benefit of the doubt) the advantage is ever given him to return the smaller price.

(11) : The master liberating his servant by his own free will

¹That seems to be the American view too; a white servant is rather a companion; that is the democratic principle; it is Biblical.

must give him a written document of liberation ; only then he is free.

(12) : A Jewish master dying, and leaving a son, the Jewish servant serves the son just as he did the father, to the end of the term, or to the Jubilee, or to his redemption. But if the master leaves any other heir than a son, the servant at once leaves free, and is not bound to serve the master's daughter, or brother etc. Whilst when sold to a heathen or a proselyte, the Jewish servant leaves at the demise of the master. Thus a Hebrew servant obtains his freedom ; after six years, or at the Jubilee, or returning pro rata the purchase money, or by liberation-letter, or by the death of the master not leaving a son.

(III, 1 and 2) : The master must support the lawfully wedded wife of his servant and his children, though these are not enslaved to him ; nor has the master any claim upon their work or earnings. The servant ever remains the rightful owner of the work of his wife and children, and of all belonging to them.

(6) : He who, selling himself, prefers to stay with his master after the six years' servitude, is not bored (in the ear as a token of permanent slavery). But if the Court had sold him, he is bored, and then remains to the Jubilee, or to the death of the master ; if even the master has left a son, he needs not serve him.

(8) : A Kohen (of Ahron's descendants) enslaved is never bored in the ear ; and when he returns home he can no longer minister as such (he loses caste).

(9) The boring takes place in the presence of three judges, and by the master personally—if the servant insists upon staying with him—in the very last moments of the six years ; but if, after its expiration, he was not bored, the boring takes place only when it tallies with the letter of the Law, viz, only when the servant has a wife who is a Kanaanitish woman and has children by her. But if he has no children by her, or if his master has no wife and children, then the servant is not bored. If his master has a wife and children, but the servant has none, there is no boring. If he loves his master, but his master loves not him, there is no boring. If his master loves him, but he not

his master, there is no boring. If he is sick and his master not, or vice versa, or if both are sick, the boring is omitted. The boring of the ear, an obsolete sign of slavery, now confined to women, is thus generally dispensed with, by simply insisting upon the letter of the Law, the rabbinical method of disestablishing a law out of time, without any disrespect to the Law-giver.

(13): A woman is never bored, by traditional custom. Male and female servants, when leaving their servitude, are given some endowments for their new homes by the old master from his flocks, granery etc, valuing no less than 30 Sela.

(IV, 1): A poor father may sell his minor daughter; with the beginning of the signs of her puberty (over 12 years old) he can no longer sell her; but he can give her to wife to whom he pleases; he can sell her only if thoroughly poor, even without a garment, and as soon as he is again able, he must redeem her. He cannot sell her after she has been once married.

(4): A female servant serves six years. She is freed by the Jubilee, or by the death of her master (though leaving a son), or by redemption, or by document of liberation, just as a man-servant is.

(5): Moreover, she goes free at her puberty (over 12 years old). Thén, according to tradition, she returns to the parental house until she becomes a full woman (12 and half-year), when she is her own mistress.

(7): If the master or his son has wooed her, then she is betrothed; she passes over into their jurisdiction, and can be freed only by the death of the husband or by his letter of divorce. Wedding her is preferable to liberating her. He tells her in the presence of two witnesses: "Thou art herewith consecrated to me," or, "Thou art my wife," or "Thou art betrothed to me;" that is the formula of making her pass from serfdom to freedom and wifehood.

(8) Such marriage wooing must be with her consent. Such betrothal constitutes no full marriage as yet, until the wedding ceremony (Hupa) has taken place. If neither the master nor

his son has wedded her, nor was she redeemed, then she goes out free at her puberty. (A free-born woman, ever free!)

(10): Her master cannot sell her or marry her to some third person. He cannot sell a male servant, either, nor give him away as a gift.

(V, 1): A heathen servant or slave is acquired in five ways, and he regains his liberty in three ways. He is acquired by money, by contract and by possession, a presumption of legitimate ownership,¹ or by exchange, or removal. He acquires his liberty for money, by liberation-document or by (the loss of) a limb, viz, when the master beats his slave with intent so that he loses one of the twenty-four chief limbs of his body, then he is free. (The loss of a tooth is a plea for freedom.)

(VIII, 1): Selling one's servant or slave to a heathen, that makes him at once free, and then the Court compels his ex-master to buy him back from the heathen, even at ten times his value, and gives him his liberation-letter. If he pawns him, for money received from a heathen creditor, with the express condition that if he does not pay the money at a certain time the slave is forfeited to him, then that slave is at once free and leaves (both masters).

(IX, 1): When an Israelite lives with his Kanaanite female slave, his child by that woman is a Kanaanitish slave in every respect, and is ever treated as such.

(4): A heathen king making captives or allowing (his general) to make such, on account of war, or of disobedience, or of non-payment of taxes, and he sells these captives or prisoners, that sale is valid, and the sold prisoner is to be treated as a heathen slave in every respect.

(6): A woman may buy female slaves, not male ones, and avoid evil talk. The heathen slave never goes free. But if the master frees him spontaneously he is free, and he must give him a letter of liberation. It is morally good and meritorious to liberate such a one for some religious purpose or as a charita-

ble act, as for having a quorum for worship¹ etc. Again, it is meritorious to free a female heathen slave, if by that her moral character will improve. Nay, her master may even be compelled to liberate her and remove a stumbling block out of the way.

(8): Legally, it is allowed to have a heathen slave work hard. But true piety and wisdom require that a man shall be merciful and beneficent, not impose too heavy a yoke upon his slave nor vex him; and he must feed him well. The ancient sages imparted to their slaves of all they ate and drank, gave food to their slaves and cattle even before they themselves had eaten. Nor is it allowed to use them with hard, unfriendly words or gestures; their duty being to work, not to bear insults. One shall not scold and anger them, but speak with them kindly and listen to their remonstrances. So Jobe (31.15) says: Did I ever refuse to listen to my male and female slave when remonstrating with me? Has not the same womb formed me and him? Indeed, cruelty and overbearing are befitting but the heathen and idolator. While the descendants of Abraham, and the Israelites to whom God gave the Thora and his commandments, they are righteous and merciful towards all. We must aspire to God's own attributes: "Who is merciful to all his creatures; who practices mercy, will find mercy."

¹The Talmud brings such a story, a leading Rabbi liberating his slave for such a purpose, instantaneously.

CHAPTER IV.

"Thou Shalt Be No Talebearer."

Another negative, ethical lesson of humanity is II M., 23.1: "Thou shalt not carry around false rumors, be no talebearer,¹ nor make common hand with the wicked, as a rapacious witness." Conspire not with, be no accomplice of, mischievous testimony. To steal, rob and murder, to commit perjury, forgery and incendiarism, is generally recognized as heinous, criminal and punished severely. But there are things more dangerous to the peace, happiness and prosperity of the individual, the family and the community at large. There is a dagger so subtle and smooth, a venom so sublimized and refined, so treacherous and fiendish, that it penetrates the coat of mail of the hero, the secluded study of the scientist, the equanimity of the sage, the silken robes of the great lady and the delicate crimson of innocence; that blasts and corrodes good repute, the honor, soul and body of the maiden, the patriot, the wife and the friend; that kills with a look, as the basilisk's eye, as the aspect of Medusa on the fabled shield of Perseus, in Homer.—That is, scattering venomous gossip, false reports and talebearing, carrying around and giving credit to mere rumors, conspiring with mischievous testimony, slander and calumny. As there is a genius for each activity, a talent for every art, even so there is an innate, hellish capacity for gossip and mischief. It needs but a stout tongue, a brazen face and a cold heart, swelled with jealousy. It delights to whet its teeth against the most deserving, as the wasps prick at the sweetest flowers. It cajoles the worst instincts, the feeling of envy and humiliation at another's superiority; the most vain and incapable are the bitterest at the sight of worth. They will pardon stupidity, meanness and crime, never will they nobility and superiority. Quick-footed they run from neighbor to neighbor, around the corner and be-

לא תשא שמע שואי

hind the staircase, repeating over and over the same tale, with increasing variations and gradual exaggerations; first in a whisper, a hint, winking with the eye, a motion of the hand, a malicious smile, and, if accepted, soon with a torrent of words, yea, a vocabulary of oaths; enlisting the supposed inborn envy, the vanity, the invidiousness of the interlocutor. Thus, in a few moments they demolish and wither the good repute of a virtuous woman, the integrity of a judge, the good standing of a public man, an authority acquired during a generation of hard work and noble endeavor. The very best of mankind has been stung to death by that subtle, poisonous hydra, slander, misrepresentation. And for such a crime, nevertheless, the law has no punishment, society no frown and no scorn; hell cools its fires for such a cowardly, contemptible, wordy misdeed. No! it is rather patted and courted and praised, as wit and humor, as a fine art, a social talent, the best salt to season dull society, to amuse the oversatiated, the *blase*; what would society do without gossip! To that fashionable and most dangerous vice alludes our verse: "Do not carry around false tales." There is a fabulous monster, the basilisk, that fastens his eyes upon the bird on the tree and charms it to the spot, until it is caught and devoured; that basilisk is fashionable gossip.

Kindred, nefarious, secret social vices are alluded to and warned against in III M., 19.11-18, not identical with, but of the same tribe as the above, variations thereof: "Ye shall not semble and sneak (steal¹), deny, insinuate or belie each other. Ye shall not violate and deprive one another, or withhold the wages of the workman. Ye shall not curse the deaf, nor put a stumbling-block in the way of the blind, nor be unrighteous in judgment, nor favor the poor, nor spare the great, nor be a talebearer, nor stand indifferent at your neighbor's blood. . . . Thou shalt bear no secret hatred, nor entertain any grudge and revengefulness, but expostulate frankly with, and love thy brother as thyself." This noble nineteenth chapter of Leviticus is not a repetition of the Decalogue, but an expansion and broad-

¹לֹא תִגְנוֹבִי here alludes to moral stealing, insinuating untruth.

ening of the morals and more refined ethics of Mosaism, the higher morality, not only in deeds and facts, but in feelings, motives and their psychological results. They have the same root and grow on the same stem as tale-bearing, preparing and concocting of false testimony. A wicked heart, an evil eye, malice, envy, jealousy, invidiousness, the fiendish impulse to do harm with an innocent mien, without incurring any danger to self.¹ That crime is so subtle and refined that human justice cannot cope with it. It is mischief, cowardice and wrong in one breath. God alone can! It is the tree upon which all the sins, ills and crimes grow, the child of idleness, invidiousness, vanity and mendacity; desire of spoliation and supplanting, enjoyment by the torment of others. The Pentateuch brings us many sad illustrations of the danger of evil tongues, malevolence and kindred vices. The Patriarch Jacob "wished to live in peace when there sprang upon him misfortune through gossip."² Joseph, spoiled by gossip and idle talk, innocently aroused the jealousy of the brethren, who, suspicious and frenzied by his dreams, tore him away from home, dragged him into slavery, broke the heart of the father and plunged their home into mourning. Behold King David, his fine parts, heroism, toils, dangers and marvelous national success; gradually getting old and weak, he wished to enjoy some rest. But evil tongues nestled in his family. Amnon and his half-sister, then Absolom and Achitophel; seduction, murder, rebellion and adultery follow. David, fleeing before his rebellious son, recovers his throne, but never his happiness. Gossip has ruined it. Or look to modern fiction: Franz Moor calumniates and ousts his brother, murdering him, without steel or poison, by mere gossip and calumny; he deceives and breaks the heart of the old father; he then imprisons and starves him, and, in despair, finally commits suicide. Behold Shakespeare's Othello, so noble, generous and strong, is entrapped by evil tongues, by Yago, weaving a mischievous cobweb-handkerchief into a cable rope, to entrap a mad lion; pure, sweet, Desdemona

¹אכלה ומחתה פיה ואמרה לא פעלתי עקי Prov. 30. 2.

²Rashi to I. M. 37 יוסף של יוסף בקש יעקב לישב בשלוה וקפץ עליו רגזה של יוסף

offers the most tragic illustration of our theme. She has mislaid a kerchief, an heirloom, and this gossip spins out to faithlessness. She was guilty of a serious fault, elopement, and was punished for a crime made up by evil tongues, thus dying innocently, the spectator pardons her former indiscretion.

MATTHEW ARNOLD. THE WRONG MAJORITY.

Whilst our analyzed verses aim at secret, mischievous propensities, fruitful of baneful consequences, II M., 23.2, hits at a public, ostentatious weakness, in another way dangerous and far-reaching: "Thou shalt not side with the many for evil, nor shalt thou, in a litigation, incline after the multitude, to prejudice right." The Rabbis deduced from this, or rather utilized this verse for a legal maxim, viz: That whilst, generally, a majority of one decides, nevertheless on a death verdict a majority of two are necessary to punish with capital punishment, whilst a one-majority suffices for acquittal. In its own, literal, general, humanitarian sense our verse is pregnant with great import: Do not from sheer, wicked cunning, or imbecile weakness shout with the crowd; do not blindly follow the majority; be no mental sycophant, but adhere to your own opinion, if approved by your conscience and reason; rather fail with the honest few than triumph with the thoughtless many. In the long run is reason stronger than prejudice, than the blind multitude. In recent times it was Matthew Arnold who re-emphasized this important Mosaic lesson. The small minority, the "*remnant*," is right; it is permeated with the divine spirit and rules mankind's destinies. It is not the majority, the multitude, engrossed by the cares of the hour, that sees clearly; nor is it the minority of today that is right, not the accidental minority of today and tomorrow again the majority, as Whigs and Tories in England, or Republicans and Democrats in America; both shift as the sands of Zahara, both parties run after the majority, and succeed or fail by mere chance; neither of the official, two halves of the nation are infallible, and neither represents the true divine spirit, the driving element of history, the leading genius of mental and ethical progress. No; it is the mere *remnant* that

harbors the truth, the "*saving remnant*," so called by Matthew Arnold in his pregnant lectures delivered in New York some 20 years ago; lectures on "Numbers," full of wisdom and humanity, but misconstrued by the multitude. These superior discourses about the *saving remnant* had for their text our Mosaic verse: "Thou shalt not side with the many for evil." In aristocracies there rules the minority; in democracies the majority, but neither is right; only the remnant is the real moving force of the divine chariot of human destiny and government. What is the great frequent vice of democracy? No conviction, no settled opinion, no character; the individual voter is entirely absorbed by the craving for the many: "What is your conviction, sir?" "I am with the majority." "Speak out, what is *your* opinion, sir?" "I want first to hear my fellow-citizens pronounce on the case." That is just what our verse stigmatizes. "I propose this and that . . . but if you don't like it I shall propose the contrary." That is very cunning, but it denotes an entire lack of character and of principle, that will never do good to anyone except the timeserver. Hamlet uses his persiflage on the assentators: "Do you see yonder cloud shaped like a camel?" "Yes, Prince; like a camel." "No, sirs! no; like a weasel!" "You are right, Prince, like a weasel." "I am mistaken, sirs; it is like a whale!" "Yes, Prince; very like a whale." Thus conversed, formerly, princes with their courtiers; now the majority with abject office-seekers. The honest man, the true, upright friend of the people, comes out with his true colors; he argues and backs his opinion with truthful, cogent reasons, and if failing to please the majority, he steps back, awaiting that time will justify him. Whilst the demagogue is a mere mouthpiece, a rhetorician; selfish, cunning and shallow, ever on the alert where the wind blows, how to please and ingratiate himself with the many, sitting between two stools, with no other object in view but to head the majority, be their mouthpiece, wherever they may go, espying the drift of the crowd and ride it by espousing its cause. Matthew Arnold, following the meaning of our verse in his said, fine lectures on "*Numbers*," showed that: There is "but little moral good in governing majorities;" their

wheat is buried under their weed. Camp-followers ever overcrowd them and outcrowd the honest elements. With the little original good as the kernel, creeps in a host of evil, and *this evil must be eliminated by the infinitesimal remnant*, the remnant of both, of the majority and of the minority; of both parties is the majority without any real, ethical value. The majority of both, the dominant and the opposition wing, confers office, but all good government really comes from the remnant-minority, and that remnant, as stimulant and check, must be very strong in moral energy and principle in order to form the centripetal force, the nucleus for the masses to gravitate towards it. *The fact is, the wise, good and honest are ever a minority*, and such small numbers are present in both parties, while the crowd shift to and fro and side wherever they expect victory and office, and that crowd it is that makes majorities. "*Vox populi, vox Dei,*" would be true only then, when all knew what they voted for, *i. e.*, if all were wise and honest! But mostly the large numbers are led by a rhetorician or a demagogue, and are therefore no criterion. Hence, follow thou, the Thora says, thy own, honest feeling, thy own opinion. Be not the echo of the many for evil. Utter your own opinions, each, individually, with knowledge of facts and sincerity, then the crowd will follow you; you will lead the majority, not slavishly follow it.

"RETURN THY ENEMY'S OX."

(II M., 23.4): "If thou meet thy enemy's ox or ass going astray, thou shalt surely bring him back to him . . . If thou seest the ass of thy enemy succumbing under his burden . . . thou shalt surely assist him to unload him."¹ The same sense is in its parallel passage, V M., 22.1-5: "Thou shalt not see thy neighbor's ox or his lamb go astray, thou looking away; no, thou shalt, indeed, bring them back to him . . . The same do concerning any other thing he loses and thou findest, do not look away . . . Thou shalt not see thy brother's ass or ox

¹ עוזב תעוזב עמוי With Moses Mendelssohn, I prefer this interpretation as its real sense.

prostrate on the road, and thou turn (indifferently) away; no, thou shalt surely assist him to lift them up." Here are primitive environments contemplated, an intrinsic proof of the antiquity of the law; a primitive, agricultural country, farmer-citizens, few travelers and hostelryes. The battle for existence is arduous and bitter. Here a rival's dearest goods are perishing, and a man may well be tempted and say: I shall do nothing and be rid of a dangerous competitor close at my side. A *prima facie* interest would bid: Utilize the opportunity and get rid of an enemy and a rival with one stroke. That is often done nowadays, on the exchange, the market and the street. But, in the long run, revenge and rivalry is a poor policy. Wisdom advises: Assist thy rival, and you will best rid yourself of his rivalry. "Disarm your enemy, by showing him that you are not his enemy," advise the Bible, Spinoza and Kant. You may make him yet a friend; at any rate, you take away his sting. Otherwise, you sink it ever deeper into his breast; whilst silent vindictiveness, chuckling malice, is always cowardly and contemptible. Besides, most of enmities are originally of small import, often contrived by gossip, swelled by time, mere trifles and petty mole holes; wherefore swell them to mountains? Do a small favor and get rid of an enemy, or oblige him and gain a brother.

Again, reflect: Buddha, Jesus, Francois d'Assise and Spinoza advised: "Love thy enemy." Was that from love or rather contempt? To love an enemy is impossible, I am afraid, except if I despise him, and what I despise I may pity, but pity is not love; love is unqualified sympathy, united to respect and esteem. Love thy enemy is a Utopia, a maxim for the other Utopia, the kingdom of heaven, or communism on earth; it is a psychological impossibility, just as for the flame to drop, or the stone to rise, is a physical impossibility. Mosaism asks not the impossible. There is no need to love our enemy or our rival; but disarm and placate him, prudence and generosity advises that; give him a lesson of "live and let live," of well-understood egoism; egoism corroborated by wise altruism, and that will

do good to you, to him and to all the social body.¹ Buddha, Jesus, Spinoza etc. advised one-sided altruism, self-sacrifice: "Since human life is worth nothing." But this is not the view of Mosaism. No! life is worth living. The Thora legislates for life, for this world first. Do thy duty, "that thou mayest be happy." "Perform the Law and earthly blessings will be thine," is its constant refrain. "God saw that all is good." Optimism! This is the Mosaic standpoint; hence he teaches an intelligent egoism, wise, true self-interest is ever fully reconciled and combined with sympathy for others. Tocqueville believed "the well-understood interest is an American philosophy." No; it is Mosaic, humane, universal. It teaches "honesty as the best policy" on this earth already, not only in heaven.

NO FAVORS IN JUSTICE.

(II M., 23.3-6): "Thou shalt not favor the poor in litigation; thou shalt not bend the judgment of thy poor when pleading."² A fine, humanitarian remark, not to overdo on either side, ever to hold the middle course and avoid the extremes; a doctrine taught by Socrates and Aristotle also. Concerning the poor and the weak, men are inclined to be partial, one way or another, either sympathizing with the helpless or despising him for that, in either case to prejudice him, favorably or unfavorably; and both are wrong. Be impartial, dispense strict, straight justice, inflexible to pity or neglect, with the eyes looking to the cause, not to the man. We have above alluded to higher ideals of sympathy. Buddha gave away a kingdom and devoted himself to alleviate human misery. Hillel gave to an impoverished nobleman a villa, a horse and a footman; nay, made himself his needed footman on a sudden emergency. The Rabbis forbid the creditor to pass in sight of the insolvent debtor, for fear of shaming him. Another Rabbi offered, incognito and secretly, a daily allowance to a poor man; once that man was nigh detecting him on that clandestine char-

¹Tocqueville, "Democratie Americane," *l'interet bien entendu*, page 213.

²In our rendition of the sacred texts, we pay chiefly attention to its sense and intent, not purely verbal or casuistical.

ity, when the Rabbi hastily ran away and—fell into a burning furnace! There are many more Agadic tales of that sort. We have alluded to the charity, the love and forgiveness of the Nazarean moralist, as also to Spinoza and Kant's ethics, advising to love one's enemy and thus disarm him. All that self-sacrifice and placability is grand, sublime to the sky, yes, even to the sky, but not on earth; it is not real, human, possible; closely considered, society would not thrive by it; hence it is a Utopia, from fairyland. These are virtues measured by angelic proportions, not at human size. As the fabled hanging gardens of Semiramis, we look up to them, wonder at and admire them, but cannot reach them. We are asked to divest ourselves of our earthly bodies, but we cannot. Love your enemy—and hate yourself! Give all to the poor and the indolent, and have your children starve! That is making virtue vicious by going to the extreme. There is a pointed saying by Lessing, well applicable, with some slight change, to this case: "If a divine genius would offer me, in one hand, human, possible truth and virtue, and in the other, angelic, impossible ones, I would say: Genius, let me have the possible one, and the divine one keep for thyself, keep for angels." Epicure said: "Be not too angry with the wrongdoer, for he is ever acting according to his nature, just as the flame burns, or the tiger lacerates." On that ground Spinoza, too, counseled equanimity towards the wicked, for they simply follow their nature. There is nothing to praise, nor to blame; everyone acts according to his nature; there is no moral freedom for man, as there is none for beasts and things. Alack! if really so, it is very sad, for earth-born and civilized society is a failure. Maybe that, in punishing crime, the judge, rather, should bear in mind the possibility of such a view, and rather pity, condone and admonish, than hate and punish the criminal wretch as, perhaps, the victim more than the author of his misdeed. But, in real life, we have to accept human responsibility as a fact or society would perish. To love my enemy and let starve my children is poor ethics, neither written in my heart nor in my reason; it is not in the Sacred Writ. All that it asks is: Be impartial, give the poor his due, and probably he will

never ask more; he will never become a pauper. While all these above-mentioned noble idealities are exaggerations, impossibilities here on this, our earth. We feel it and daily experience it; love only elicits love and hate produces hate. We may, making an effort, condone, pity, pardon, even assist, our enemy, but we cannot love him. A flame is kindled by a flame, not by snow. Buddha, Nazareth, the Talmudic idealists, the Mediæval romanticists, down to the ethics of The Hague and the Konigsberg philosophers have erected monasteries, churches, schools of learning and of philosophy. Mosaism has created a people, a state, a human polity; a polity gradually accepted and practically acted upon by the present, entire civilized society all over the world, Japan and China, India and Egypt included. This Mosaic policy is, *the well-understood interest*, an intelligent, well-reasoned, farsighted, Ego-Altruism, egoism and altruism fully combined and harmonized. The individual interest is best served, and then alone served, when in equilibrium and fully counterbalanced by the interest of all, *in the long run*. We feel and see that Society needs work, effort, or it would perish, and its only stimulant is, and must be, property, self-interest, not communism, nor self-sacrifice. We feel that agriculture, industry, family, creation of wealth, education, need responsibility, right and duty and reciprocity as their motive. Self-sacrifice, altruism alone, without egoism, will make dupes of one part of society, cunning foxes and robbers of the other part, and at last both will perish by starvation. The founders of Christianity have set a great example of the one-sided, altruistic, all-yielding doctrine of Love. So have those of Buddhism, and Spinoza's "ethics." But scant and rare were those who emulated them. The generality of people "stole the coat and also the cloak," "smote on the right and the left cheek;" for every one true saint, for one St. Francois d'Assise or Sainte Genevieve or Joan of Arc, the calendar contains one hundred frauds, hypocrites and rogues, throwing over their wicked shoulders the mantle of Elijah, and holding them up to the veneration and the admiration of the ignorant. Nay, more, we see in our own times and with our own eyes such frauds and rogues sanctified and canonized and pushed

into the "hall of fame," whilst without their masks they would go to execration and the hall of shame. Gibbon has shown how saints were forged and smuggled into history.¹ But even considering the generality of men, the saints are rare. It is a vain attempt to make angels out of men. That attempt of exaggerated, overstrained, hyper-human sympathy, love and self-sacrifice, hails from Hindu-Persian, Essenian pessimism: The world is a blunder; Evil (Ahriman) is even stronger than Good (Ahura Mazda); material nature is *the Evil*, by principle; the divine light is obscured by its too great distance from its origin; material existence is a punishment; this Hindu-Persian, Essenian doctrine was brought to the West by Neo-Platonism, by Gnosticism and by Buddhism (the "*vanity of vanities*" of Ecclesiastes), by the qabbala, Paul and Spinoza. All these deprecated the world as the other extreme end of the Divine Light, as impurity, darkness, Evil. All these taught that activity, virtue, study, art, renown—all is vain! They all despaired of the world as it is. Some despaired and gave over the fight as futile, as Buddha did; some aspired at a total renovation of the world: "To improve the world by the kingdom of heaven." So did the Jewish and the Christian moralists during the first centuries of the common era.² And this ideal may be retraced to remoter Indian ideas and ideals. Pessimistic Brahmanism, despising reality, existence, work, family and society, aspired to its original atmosphere, beatitude, ecstasy, to a monastery on earth and soon absorption in God—Nirwana . . .

Quite another conception, scheme and aspiration are entertained by Mosaism. That accepts the world as the best creation,³ by One All-Wise, All-Powerful and All-Loving Supreme Being; but man, being morally free, though not always wise, spoils often his own sphere of the world by his shortsighted egoism and passion. So the Mosaic Law copes with that artificial, not radical, but human, evil. That Law is realistic, practical,

¹As to the common herd of "wolves in sheep skins," in the pulpits, the halls of justice, the office, the rostrum, their number is legion . . . It is not religion, justice, education that are failures, it is their ministers and stipendiaries. A plucky preacher in New York recently told the secret: "That the churches are empty, the stupid ministers are the cause."

²Aleinu Prayer, or Adoration *לחמן עולם במלכות שדי*, connecting Nahardea, Judæa and India with the world embracing humanitarian aspirations.

³בראשית ברא אלהים - I. M. 1.

aiming at man and world as they are, aspiring at improving them, not sublimizing and angelizing them. It ordains, and with emphasis, work for six days in the week, and one day for rest; work in the sweat of thy brow, and then enjoyment of what is produced; it bids to improve and to build up society, family, property. Be just, good and sympathetic towards thy fellow-creation; live and let live; do not take advantage nor over-reach; love thy neighbor, condone with thy enemy, and, wherever you can, encourage and assist; but forget not thy own self; practice neither selfishness, nor self-sacrifice, but choose the just mean, standing half-way between both, as Aristotle taught, the line harmonizing and conciliating egoism with altruism; the wise and enlightened human interest of all, is the rule of conduct for each; that ego-alter polity, made the rule of each, will gradually bring about the possible happiness of all.¹ Be a good individual, parent, friend, fellow-citizen; fulfill the Law, and that will, in the long run, procure thee all the happiness thou art capable of. And that is a reasonable optimism. That created the Mosaic Laws of justice, property, charity and solidarity. That the Mosaic Law urges on and aspires at: Be a good man, not an angel; practice right and charity, not self-sacrifice; build up your sphere, your own world, improve that world, man and society as they are. That is the Mosaic scheme, and from that standpoint are framed all its doctrines, its laws and institutions, all; civil, political, social, agrarian, industrial, religious, charitable and humanitarian.

Looking around in the world, we may justly conclude that all civilized societies of this terrestrial globe are standing upon or making for these principles, making the best of what we have; not the pessimism of Hindu-Persia, but the mitigated, mild optimism of Mosaism is the ethical standard of the globe. "The kingdom of heaven" is for heaven, and this earth is for Adam's children.² This is the Biblical ethics and the Mosaic scheme. Let the world realize that, and it will be good enough; we need no new ethics and no millennium.

¹Kant.

²השמים שמים כד' והארץ נתן לבני אדם Ps. 115. 15.

PROTECTION TO WOMEN CAPTIVES.

The Deuteronomist resumes our important theme, the humanity, sympathy and solidarity of society, which, we have seen, pervades the entire Bible Legislation, as air fills space and as heat and electricity permeate living bodies. On this thrilling occasion it states (V M., 21.10): "When thou goest forth to war against thy enemy . . . and on taking captives . . . thou seest among them . . . a beautiful woman, and thou cravest for her, thou canst take her to be thy wife; . . . Thou shalt then bring her into thy house, and she dress her hair,¹ pare her nails, put off her captivity garment, and, retired in thy house, she shall mourn over her father and mother for a full month; after which thou canst come unto her, be her husband and she becomes thy wife." Behold the Lawgiver's broad sympathy, thoroughly humanitarian and unsectarian, combined with solid realism; he is little given to idealism, still he counts upon the spark of charity lurking in the deep recesses of man's heart. He knows full well the world, its ills, tears and wrongs, and copes with them. Men will differ in opinions and in interests; they will quarrel and fight, and war will lead to oppression and captivity. The ideal moralist would preach justice and charity, with peace and no war or captives. But it will take yet a long while until he will succeed. Therefore, our Mosaic realistic law, in the meantime, attempts to lessen and mitigate the evil and renders the fate of captives at least bearable. "To the victor belong the spoils." Well! Let him use them, not abuse them! Hence the above compromise between force and right, practice and theory; the victor and his captive; she is thine, but just because she is thine, spare her. She may be thy wife, then let her be no longer thy slave. It is thy interest and thy duty to make her fate tolerable. Thou shalt not treat her as a harlot, but as thy wife and the mother of thy children. Hence let her put off her captive dress, let her mourn over her country, home and

¹This may best be the meaning of וַיְגַחֵהָ אֶת רֵאשֶׁתָּהּ, literally, she shall shave her head, perhaps in token of mourning. The Rabbi's suggestion, "in order to render her ugly," hardly hits the sense of the verse.

family; give her a month's time to resign herself unto her new conditions, and then thou art free to be—her husband.

“Now, it may come to pass that thou dislikest her”—what sound psychology; for to kill the husband and parents and marry their wife or daughter is ever a dangerous experiment! “Then beware of selling her away as a slave! Let her go free, since thou hast disappointed her.”¹ Here is the humanity, justice and charity towards a captive woman, the most helpless of all victims. Here is a realistic point of legislation, many thousand years old, in Asia, hardly reached in our century. Open the pages of history and look to the fate of captive women, by far worse than that of male war-prisoners. Already in the Trojan war the leaders, Agamemnon and Achilles quarreled about the lot of captured females. The same was at all times and all climes. The victor used to usurp the wife or daughter of the vanquished.² Pride, revenge and lust insisted upon that barbarous custom. Now, here is a soldier flushed with victory, blood and greed of pillage, and here is a helpless woman, his booty, and the Lawgiver steps between them, magnanimously and benevolently he rises and holds up his shield: Let her be thy wife, not thy harlot and concubine!

Here is the divine part of the Lawgiver, to protect the innocent and the weak and to humanize the overbearing strong. Remember the wife of the Levite maltreated by the Benjaminite tribe (Judges, 19). King Saul gives away the wife of the fugitive David, his own son-in-law and former favorite. Absolom invades his father's harem, in proof of his occupying the parental throne. King Alboin compels his wife, the daughter of the vanquished Herulean king, whom he had killed, to drink out of her father's cranium, formed into a wine-cup. At all times conquerors gave free to their victorious soldiers the women of the vanquished, as their booty. Augustus of Rome and recent Napoleon of France made free with the women of their friends and

¹This is the real sense of the verse; the moral, not the literal one.

²So Neoptolemus, Achilles' son, forcibly marries Hector's wife, Andromache, and then forsakes her. Absolom usurps his fugitive father's wives etc. in token of his successful rebellion and seizure of the throne.

their foes. The latter's wanton insult to Princess Louise of Prussia was even more brutal than his cruel murder of the Prince de Conde. In such an emergency the Mosaic Lawgiver sternly steps in with the ægis of divine protection to poor, helpless womanhood.

But even in our own times things have little improved. Think of how, within this generation, Russian Cossacks dragged Jewish peaceful men, and women in childbed, in grim winter, out of their own beds, to thrust them into exile; how they ravished and murdered helpless virgins and matrons! Remember how the Turks treated Christian women in the Bulgarian insurrection! You have heard of Arabi Pasha's Alexandrian revolt, his massacre and abuse of European women. Remember how on a similar occasion the English soldiery treated Hindu women; how the Chinese Boxers used Mohomedan and Christian women, and how Chinese women were treated by European soldiers in their turn! One wrong brings another wrong. So, Hillel, the Elder, remarked, on seeing a corpse swimming in the river: "Because thou didst drown, thou hast been drowned, and those that have drowned thee will be drowned in their turn" . . . Here is the logical Talion in history: The Russians maltreated the Poles and Finns and Jews; the Turks outraged the Christians; Arabi Pasha retaliated on the Europeans; the Europeans on the Hindus and Chinese, and the Chinese abused Christians and Mohammedans. "One wrong brings another." "Since thou didst drown, thou hast been drowned."¹ "The world's history is the world's judgment seat."²

Now, compare with that dismal historic tableau the realistic but humanitarian legislation of our chapter, and see how far in advance Mosaism is of even our own present time! Nevertheless, Anti-Semitism and agnosticism clamor for higher patterns of ethics and humanity! As if the Old Testament ones had been reached and outstripped! Even in America they have not been reached. That old axiom was still repeated by American lead-

¹עבירה נוררת עבירה (aboth II) על דאטפת אטפון

²Schiller's Resignation poem, "Die Welt-Geschichte ist das Weltgericht."

ers: In our Civil War, the Mexican War, Cuba, Porto Rico and Manila wars, "To the victor belong the spoils" was appealed to, though, I hope it did not go to the full length of barbarism. The same allowed England a free hand in Boers' land!

On such occasions it is the province of Law, as religion, as a truly divine messenger, magnanimously to step in and interfere, and call upon, with the sacred authority of higher justice: Thou claimest victory and booty; still thy captive is not absolutely at thy command. The law shields her yet! Thou canst make her thy wife, not thy toy! Give her time for mourning, self-collection and preparation, for her new condition. Then I allow thee marriage, not concubinage, nor selling her into new servitude!

Undoubtedly, there are yet higher ideals: No war, no booty, and no forced marriages. But, unfortunately, even in our times, that Mosaic mitigating and protecting law of 3,000 years ago has not yet been reached! History will for a long time yet, with a blush, yea, with a cry of horror, remember how Jewish women were treated by Russians, Bulgarian women by Turks, Hindu ones by English, Alexandria-European and Christian ones by Arabi Pasha's bands, Mohammedan and Christian ones by the Chinese, and Chinese ones by European soldiers! The liberal and pious Gladstone felt indignant, and so was Europe, at Arabi's outrage of helpless weakness. Unanimously he and Europe insisted upon and obtained the immediate bombardment of Alexandria, as well as the exemplary punishment of the Turks for their outrages in Bulgaria. But they were and still are silent at the outrages on Jewish helplessness by the Russians and the other barbarous countries. Still, here is the Mosaic Lawgiver protecting the honor and dignity of heathen womanhood against Hebraic victors! Still, Europe and its leaders claim to revere the Bible, but they do not obey its moral precepts!¹

THE RABBIS AND THE REVERSE SIDE.

On the other hand, the later Jewish moralists do not forget and do call frequently attention to the danger of marrying under the spur of mere passion. So, for instance, is David challenged

¹You remember that Spartan remarking: "The Athenians know what is right, but they will not do it."

for his murder of Uri and the marriage of the latter one's wife, Bath-Sheba, an ugly stain on the history of that heroic, versatile, great King, no doubt. Nevertheless, it speaks volumes for the superior morality in Israel and the stern outspokenness of the Jewish prophets and historians; a shining example in the annals of conquerors and courts of all times. Rare is the monarch or hero who has not committed the crime of David! But rarer still, indeed, is the repentance, the frank acknowledgment and the effort to make it good, as shown by him. Nowhere in history can we find a Court-Prophet or historiographer dare tell the king and hero that fine story of "the rich master devouring the poor man's single lamb" . . . and boldly winding up with: "*Thou art the man!*" (II Sam., 12.7.) Such crimes are not infrequent, but such rebuke by prophet and repentance by prince are rare, nay, sublime! A hundred times David submits to see thrown into his face his sin with Bath-Sheba; and even his future dynasty's many misfortunes and disorders are logically attributed to his own crimes of that nature. On a similar occasion the Talmud is just as outspoken as was the prophet Nathan. It is a fine remark in Sanhedrin, 107 *a*, viz: The Rabbis assume that the mother of Absalom, the rebellious son of King David, was a female war-captive, allowed by law to be married by her Jewish captor. David quoting that law as his excuse for that marriage, a Teacher pointedly replied: "True, but you forget the context: 'When a man will have a disobedient and rebellious son.'" (V M., 21): "Whoever marries a female captured in war, will have leisure to repent of it, for he will father a disobedient and rebellious son."¹

PROTECTION FOR CHILDREN. PRIMOGENITURE.

(V M., 21.15): "If a man have two wives, one loved and one hated, and both bear him children, and the first-born son be by the hated one . . . then he cannot substitute the son of the beloved wife as his first-born to the first-born of the hated one; but the first-born son of the hated one, he shall acknowledge and

¹כל הנושא יפת תואר יש לו בן סורר ומורה, a deeply psychological diagnosis.

recognize as such, and give him a double portion of all he possesses . . . for to him belongeth the right of primogeniture." Behold how the Mosaic Law is dictated by the divine spirit of impartial justice and broad humanity, without any unjust prejudice! Polygamy is bad enough; two sets of children in one household are its next baneful consequence; the father may, naturally, prefer the child of the loved wife to that of the disliked one, a third ugly result; jealousy, hate, crime, will follow, even to substitution and prejudicing the innocent offspring of polygamy. But the Lawgiver interferes and ordains that the fatal consequences shall stop there and not go on unchecked; he declares that feelings are uncontrollable, but deeds, facts, are and must be. Therefore he fixes the primogeniture irrevocably. The parental predilection shall not go any further and practically become detrimental to the offspring, entirely innocent of such likes and dislikes; right shall not be set aside by whims and sentimentality; the real first-born son, though by the hated woman, shall have his right, and not be supplanted by his rival, the son of the lucky woman. The Legislator instituting this law had before his mind's eye the story of Jacob, Leah, Rachel and their different sets of children; hence their jealousy of Joseph, his abduction, with all the unfortunate results and the later recognition in Egypt; later yet, Joseph actually receiving a double portion and the privilege of first-birth, arise the most baneful national results for centuries, in the jealousies and wars of the houses of Judah and Ephraim, the offspring of the disliked Leah and the beloved Rachel. Here, we see, the Lawgiver had well studied history, and seen how insignificant causes grow with time into disastrous and monstrous consequences. Learning from history, he declared: The parent shall not transfer the primogeniture from the son of the disliked wife to that of the preferred one; but to him, the really and naturally first-born one, belongs that privilege. Sentiment must be waved with, and right and reason remain permanently. Remember, now, the environments: The Orient, 3,000 years ago; woman is a slave and has no independent status; she is a drudge, a wife or a Sultana, all accord-

ing to her good luck, if loved or not; according to the good sense or the caprice of the master—that determines the fate and position of her children! They are slaves, as the mother is. Add to that polygamy, that there are in the one household many wives, each with her set of children. How fatal such conditions are to the household, making it a hotbed of intrigue and hate, persecution and assassination, even parricide, we learn by a glance in the history of Oriental nations, dynasties and palace revolutions. The children of the different slave-wives are natural enemies of each other, and hence the frequency of domestic tragedies, with strangling, dagger and poison. So our sacred law sets its face against that ominous and baneful social feature in the polygamous Orient. It determines definitely and rationally the primogeniture; it protects the innocent child against the results of parental weaknesses; the great heart of the Lawgiver goes out toward the innocent young, drying their tears and turning off their daggers.

CHAPTER V.

The Rebellious Son.

(V M., 21.18-22): "If a man have a rebellious and stubborn son, not obeying his parents, and they chastise him and he hearkens not . . . then they shall bring him before the city Elders and say: This, our son, is stubborn and rebellious, he is a glutton and a drunkard, and obeys us not. And all the men of his city shall stone him that he die . . . that all shall hear and be afraid." Consider, now, the circumstances: Anciently, the father was the absolute master and owner of the family, as the king, the supreme patriarch, was of the entire territory and people. The parent could sell, expose or kill his child. Disobedience was a crime, and punished by him without appeal. Mosaism substituted, instead, the arraignment before the Judges or Elders, and public punishment inflicted by them, instead of private revenge by the offended parties, giving the incriminated son a chance of appeal, if innocent. Thus the law intervened between parents and child, to secure to reason the dominion over passion, even in such delicate family cases. Compare this, now, with the most vaunted conditions of antiquity. In Sparta the young son knew the mother, not usually the father; he belonged to the State, not to the parents. He was bred up to become the soldier and the tool of the country's greatness, not to revere and love the parents. If born weakly, he was thrown down a precipice, being of no use to fight, his only usefulness. In Athens the young ones could be sold or exposed. Infanticide was permitted there. In Rome, even the grown son was absolutely the property of the parent, at his mercy for life and death. That is a principle in the Roman XII Tables and maintained down to the Middle Ages. Whilst in Mosaism, humanity and justice threw the protecting ægis not only upon the good, dutiful children, but even upon the unruly, hard ones, incriminated by the parents. The Talmud went even further upon the road of justice, mercy and universal protection. It declared that the in-

crimination brought forward in our text, is far from deserving and requiring stoning, but that the Lawgiver foresaw the future, that such a prematurely vicious individual would end shamefully. Hence the law anticipated: "Better let him die half innocent than fully guilty," and thus, for example's sake, removed him quickly.¹ Arguing closely, now, from the letter of the text, pushing letter and argument to their very extreme, the Sages multiplied the conditions and clauses of the case to such an extent that the execution of the law becomes pretty nigh an impossibility. The Rabbis openly admit that never such a case had occurred: a rebellious son stoned to death. Thus the liberality of Mosaism was even surpassed by that of the Talmud. The Mosaic Law was more liberal than its preceding Codes, for instance Hammurabi's Stela, and still it was often outstripped in liberality by the Sages. Their requirements in capital suits made death penalty almost impossible.

What an immense advance of the Bible and Talmud, of 3,000 and 1,500 years ago, respectively, over the most vaunted legislations of Greece and Rome, not to speak of India or the Orient. The humanitarianism of the Thora is fairly recognized by the Gentile jurists and scholars; of course, according to them, ever only as forerunner and preparatory to the New Testament. Not so recognized is the Talmud. It was in June, 1882, when Professor Peter Schegg, Rector of the University of Munich, gave an excellent lecture on that theme at the celebration of the four hundredth Jubilee of that institution. He eulogized greatly and intelligently the humanity principle of the Pentateuch and its vast superiority over the leading legislations of antiquity; "but," he added, "the Talmud counteracted this Biblical humanity, on purpose and intently, for which fatal direction it justly deserved the reproach of Tacitus: '*Odium generis humani.*'" By the rabbinical leading principle, that God will never change his law, every religious progress became impossible." Such reproaches we hear daily, because people judge of things they do not fully understand. The fact is, the Rabbis everywhere miti-

¹Sanhedrin, 68 b, *בן סורר ומורה על שם סופו נהרג*

gated and liberalized the rigors of the Mosaic Law, itself much milder than its predecessors. By their hermeneutic rules they disestablished many harsh laws and instituted ethics more congenial with their environments. Severer and more rigorous again they were in their hedges and ceremonies and entrenchments, as safeguards against the amalgamation of their nationality with the inimical heathen surroundings. They were thus lenient in law and rigorous in religious hedges. And this important distinction Professor Schegg, as many other scholars, has overlooked. Elsewhere we have shown this more fully.¹

If the Professor had but glanced at the Talmud on this present occasion, and likewise a thousand others, he would have found the Rabbis very progressive. With all their respect for the letter, but whenever out of time, pushing it to extreme, they entirely disestablished a relic of hoary times and made such a case impossible. Better informed, the Professor would have acknowledged that the Talmud knows well to distinguish the letter from the spirit of the Thora, each advancing its time, and more liberal than its contemporaries.

THE LIBERAL AND THE CONSERVATIVE TALMUDIC PHASES.

The fact is, we find in the Talmud two phases, running in opposite directions: One is extremely liberal, broadly humanitarian, taking Israel but as a fraction of, or as humanity in miniature, as its advanced vanguard and exponent. Another phase is the national, racial, exclusive Judaism, barricaded behind its 613 Biblical commandments and their innumerable Talmudical further enactments, hedges, customs and entrenchments;² considering Israel as the fortified camp of Monotheism among the inimical polytheistic nations, they shaped and constituted him as an everlasting opposition, a protest not only in doctrine, worship and race, but, as a powerful auxiliary, also in life, in dress, diet, speech, etc.; prohibiting everything Gentile as idolatry, differentiating and isolating the Jew by all means, just to keep him away from assimilation and have him face

¹See Mosaic Diet and Hygiene on this theme.

²גזירות, סיינים, תפנות, מנהגים

the ill-will of the non-Jew. The first phase, liberal concessions, is designated in the Talmud as "for the sake of peace and goodwill;" the other is: "Sectarian discrimination, having the intention of preventing assimilation and amalgamation, deprecating it as Gentile custom (*Hukath Hagoy*)." Following up the first method, it requires the Jew to let the Gentile participate in all our kindnesses, charities and urbanities; to visit his sick, assist his poor, take no usury of him, follow his funeral processions, congratulate him and rejoice on his holidays, assist him with a loan, never to over-reach him, and in every respect to treat him with honesty and courtesy. The other method is just the contrary: Anything and everything he does is forbidden to the Hebrew; not to court his company and his hospitality; to touch him, his dress, his bread, his wine, is forbidden, as unclean; to shun him and ever and in everything be contrary to him; everything is "*Hukath Hagoy*." Non-Jewish custom is not to be imitated, and any concession to him is forbidden as idolatry. To sum up: One direction is: In critical times the Jew shall yield to the Gentile in everything except three, idolatry, unchastity and murder; he shall rather die than commit these. The contrary phase prescribes: Not to yield even on the least rabbinical point, and rather die than transgress any established custom. Apparently, the first was enacted in times of peace, resignation, goodwill; the second was provoked by persecution and gross intolerance, spite aroused spite. Each phase was an echo of the environments. The minority offered assimilation, not apostasy. Grossly persecuted, they turned each hedge to a means of defense, just as intended for by the Talmudists. These two directions apparently belong to different phases, ages and historical environments, as their natural reflections and echoes. The Jew retaliated in mere self-defense. The first view is the broad humanity of Mosaism, elaborated in the Talmud. The other was induced by the intolerance of and the bitter persecutions by the Gentile world. These found their echo, their expression of defiance and their counter-measures in the Jewish Ghetto, stamping everything Gentile as forbidden to the Jew.

This was the natural, baneful harvest of the serpent's teeth sowed by Anti-Semitism of old.

REGARD FOR THE GUILTY AND THE BRUTE.

(V M., 21.23): "If a criminal man be killed and hanged on a tree . . . his body shall not remain there over night, but thou shalt, indeed, bury him on the same day," for a dishonor to God is the hanged one. "Thou shalt not defile thy land." Rome used to let such corpses putrify and become the prey of birds and dogs. The crucified person used to remain for many days on the cross, slowly dying, and hardly buried. In Homer we read that even Patroclus' and Hector's bodies ran great risk of being thrown to and devoured by the dogs;¹ that to prevent this,

¹Homer, Patroclus and Hector; *Ilias*, XVII., 1-XXII., 395-XXIV., 493:

Oud' elath' Atreos vion, areifilon Menelaon
 Patroklos Troessi damcis en deloteti.
 Be de dia promachon kekorythmenos aithopi chalko, . . .
 Os peri Patroklo bainē Xanthos Menelaos . . .
 (*Homer, Ilias, XVII., 1.*)

(*Ibid.*, XVII., 123):

Aianti de daifroni thymon orinen,
 Be de dia promachon, ama de Xanthos Menelaos.
 'Ektor men Patroklon, epei, klyta tenche apeura,
 Elch', in' ap' omoun kefalen tamoi oxei chalko,
 Ton de nekyn Troesin eryssamenos kysi dole . . .

(*Ibid.*, XVII., 394):

Os oig' entha kai entha nekyn ollge eni chore
 Elkeon amfoterol, mala gar sfsin elpeto thymos,
 Troesin men eryein proti Ilion, autar Achalois,
 Neas epi glafyras. Peri d' autoi molos, ororei, agrios, . . .

(*Ibid.*, XXII., 395):

E ra kai 'Ektora dion aeika medeto erga. amforteron mteopisthe
 poden . . .

(*Ibid.*, XXIII., 179):

Chaire moi, O Patrokle, kai ein' aidao domolo, panta gar ede toi
 teleo,
 Ta paroithen ypesten. dodeka men Troon megathumon vieas esth-
 lous, tous ama
 Soi pantas pyr esthie, 'Ektora d' outi doso Priamiden pyri dapte-
 mon, alla Kynessin.

(*Ibid.*, XXIV., 493):

Autar ego panapotmos, epei tekon vias aristous Troie en cureie . . .

Priamus, the latter's father, paid to Achilles an immense ransom to save the body from that disgraceful treatment. Mosaism extends its humane care even to the dead criminal. Once dead, his crime is atoned, and he is a dead brother again, and depriving him of sepulchre is a defilement of and a disgrace to man, the land and God. Here we find, besides, an ominous hint that capital punishment is barbarous and a disgrace to civilization.

(V M., 22.1-5): "When thou seest thy brother's ox or lamb astray . . . return them to him." In II M., 23.4, the same is ordained also for the enemy's ox etc. "When thou seest thy brother's ass or ox falling by the way, help him lift them up." In II M., 23.5, the same is prescribed for the enemy's ass or ox. One version teaches forbearance towards the enemy, the other sympathy with man and brute. (V M., 22.6): "If thou meetest a bird's nest on thy way, on the tree or on the ground . . . the mother lying upon the young or on the eggs, thou shalt not take both with thee, mother and young, but let the mother go . . . that it may be well with thee and that thou livest long." What sweet sympathy even with the dumb brute! Some claim to find here rather the forethought of the economist, to save the race from destruction. The closing verse seems to favor the sympathetic sense of the Law, not the prudence of the bird-breeder. Still, it may aim at both; the Law appeals to the sympathy of the bird-hunter, and at the same time aims at saving the species. It improves both, hunter and hunted, by goodness of heart and increase of the winged race, as everything good is also useful. To destroy, at one blow, mother and young denotes great brutality in man and lack of forethought for the future. Besides, to cultivate kindly sympathy towards the brute will render man the more sympathetic towards his fellow-man. The hoary Greeks used to offer frequently human sacrifices to the gods; even much later the Romans used to offer the people gladiatory spectacles, with carnage and murder as the spice; they let their crucified putrify, ostensibly in order to please the gods and to punish the enemies, but really to inure their people with the sight of bloodshed and to suppress all sense of pity and remorse, deeming these latter to be a weakness, decreasing the

civic courage and the capacity for war. In opposition to that, Mosaism, desiring to nurture sympathy, pity and peaceful habits, ordained to spare the brute and to decently bury the dead criminal. Whilst the Persians often buried their condemned ones alive, in order not to defile by their death the sacred ground, Mosaism bade to kill them quickly, humanely, and bury them decently and at once, careful of human feeling, not of the insensible soil. The rabbis well understood this delicacy of the Law. They insisted upon the quick and humane death of the criminal, with least of pain, treating him as an unfortunate brother, arguing: "Thou shalt love thy neighbor as thyself," hence, choose the easiest form of death for the condemned brother.¹

REGARD FOR THE FLORA.

Similar is the sense of V M., 20.19: "When thou besiegest a city to conquer it . . . thou shalt not destroy its trees, thou mayest enjoy of its fruit, but not cut it down, for is the tree a man to be besieged by thee!"² Here is a rebuke to barbarous, clannish Bedawins, who destroy what they cannot carry away. It teaches sympathy and consideration for the vegetation; no useless destruction even of trees and other commodities. Make war upon man, if thy enemy, not upon inanimate nature, for thou mayest thyself need to utilize it. Here is a rebuke to barbarous vandalism and, at the same time a lesson of delicacy and natural fellow-feeling, as well as of humane, saving economy. So a naughty boy amuses himself with tormenting birds and destroying toys and fine flowers; a good child builds and protects bird's nests and cultivates flowers. Both are but infantine pastimes, still each shows the drift of his mind; and as a wise pedagogue will encourage the latter propensity, discourage and punish the first, even that is the intent of the verses just discussed.

The Persians, believing in two divine powers,³ that of Good

¹Sanhedrin. בְּרוּר לֹא מִיתָה יִפֶּה. Levit. 19.

²כי האדם עין השדה, לבוא מפניך במוצור? That seems to be its best sense.

³Ormuzd and Ahriman, the two principles. See Zend Avesta, page 28. *Shetai rushioth*, often alluded to in the Talmud.

and that of Evil, worshipped the Good one, by the cultivation and saving of good plants, lands and useful domestic animals. So the Rabbis suspected here that some might assume these humane verses on bird's nests, fruit-trees etc. contemplated, as of Parsee dualistic tendency, to which they most seriously objected, and rightly so. Still, our Agadists and moralists gave to the One God of Israel two leading names, phases, attributes: Justice and Love;¹ assuming each at different times. The same Deity permitting thee to fight an enemy, ordains thee to spare his fruit-tree, to spare his widowed wife and his enslaved brother, to spare the criminal's corpse and to spare the mother of the captured bird's nest. The God of Justice of Israel is the God of Good of the Parsee and the God of Love of the Christian; justice, love and goodness are but the different sides and phases of the One Supreme Being with numberless attributes besides; He is infinite. These two divine phases of the Agada grew in Christology to two persons in the One Deity, God-Father (or God of Justice) and the Son, or Love. Later was added the third person, the Holy Ghost. Here we see the growth of religious views. Franz Delitzsch told me personally that to him the Trinity is but attributive, as with the Agadists; the masses speak of three persons.

"THOU SHALT NOT SURRENDER THE SLAVE TO HIS MASTER."

(V M., 23.16): "Thou shalt not deliver to his master the slave who has escaped to thee from his master. With thee he shall live wherever he chooses . . . thou shalt not oppress him." Here is a most pregnant verse of world-historic significance. No doubt, it had a history already in the times of Moses. The cuneiform inscriptions may yet bring it to light, perhaps as famous as that of Paris and Helena and the war of Troy. Perhaps the wars and civilizations of Assyria, Babylonia and Egypt may have their origin in runaway-slave hordes, and wars raised as in our times, to enforce their surrender. The fact is, the history of Israel, the Exodus from Egypt, began

¹Elohim is Justice, Iahv is Love, מדת הרחמים, מדת הדין

with a fugitive Hebrao-Egyptian princely slave, who ran away to Midyan-Arabia and conceived the scheme of a world-revolution. Had Moses been delivered by Yethro to Pharaoh,¹ the Exodus would never have taken place. If the fugitive Mohammed had not been successful in Medinah, he would have been surrendered to the Mecca leaders as a fugitive slave, and the Koran would not have conquered half of the world.

That verse has a history in our great American Civil War of 1860-5. It is the sympathy of the Mosaic Law of 3,000 years ago, with the slave fleeing for his liberty. Whatever the slave-owner may allege, servitude is repugnant to human nature and to ask of a fellow-citizen to deliver a poor, fleeing serf must be most repugnant, yea, revolting, to a sympathizing heart. The Southern half of the United States would not recognize it, and insisted upon the Northern half to be its slave-catcher; and upon its refusal the most gigantic civil war of modern times was its baneful consequence, with an immense destruction of life, property and happiness. A small fraction of that wasted property would have paid the mercantile value of the entire Southern black population. So the right hand lopped off the left one of the same political body. Long poverty, bitter feeling, social and economic ruin followed at once the Southern non-recognition of that divine law: Deliver not the slave to his master. What a pity! If that verse had been better taken to heart, all that ruin and bloodshed might have been avoided. The negro should have been redeemed by indemnification, a money compensation to the owners, gradually civilized and made a useful and potent factor of modern industrial, agricultural and cattle-breeding pursuits. Let us hope it is not too late.

MARRIED WOMAN'S STATUS AND DIVORCEMENT.

(V M., 24.1-5). Here is another safeguard and shield for protecting the weak, viz, the legal position and dignity of woman: "If a man marry a woman and be displeased with her, having found in her something shameful,² then he shall write for

¹According to an Agadic legend, Yethro actually was a vassal Emir and courtier of the Pharaoh, owing him allegiance.

²ערוות דברי The Shamaites correctly translate it so, and this is no doubt its literal and its real moral sense.

her a letter of divorcement, and hand it to her and dismiss her from his house. If then she leaves and becomes the wife of another man, and that one too divorces her or dies . . . then her first husband cannot remarry her . . . that is an abomination . . . and thou shalt not soil the land God has given thee as thy inheritance." Here are three points enacted in seemingly one paragraph and on one subject. It emphasizes chiefly the last, because it is opposed to ancient pre-Mosaic custom.¹ The other two confirm, yet improve custom; viz, a wife *may* be divorced by her husband when something shameful is found out against her, *not on any other plea*; then she shall receive a letter of divorcement and at once leave the house; thus an official document must be delivered and she is to leave the house by judicial decree. So far the Mosaic Law coincided with, but greatly improved the Oriental custom; granting only upon moral grounds, a public and official separation. Now comes the last enactment, reversing the general contemporaneous views, viz: In the Koran we read that a divorced wife may remarry her first husband only then, when she had been in the meantime the wife of another man! That was Arabic custom. Here Mosaism clashes and states the very contrary, and this from matured, higher, moral considerations: A divorced woman cannot remarry the first husband if she has been married to a second one after her first divorcement, this being a defilement of the marriage-tie, degrading woman and man, and hence an abomination before the Lord! Thus here are several points involved, all in favor of womanhood: Her marital rights are better screened, as also her womanly dignity; she cannot be sent off without good cause, and she can remarry the first husband only then, when she had remained single and pure. She cannot, if she had remarried and been again divorced or widowed. That is infinitely superior to the Arabian custom. The School of Hillel, following their method of accommodation and concession to general practice, allowed divorce for any cause.² While the School of Shammai clung to

¹Custom is the origin of law; millennial customs are sifted and selected by the lawgiver, and if reasonable and useful, are legalized and sanctioned.

²אפילו מצא אישה אחרת נאה ממנה—אפילו סדקה את תבשיליך This concession to the husband shows that monogamy was prevalent then. But the entire view is extremely harsh to woman and can be explained only on the plea of the prevailing "hardheartedness" of the times.

the literal, plain sense of *Ervath dabar*, and this literal sense is also its real, moral sense. The Jewish Agadists, too, adhere to that, declaring that: "Even the stones of the altar weep at the divorce of a devoted wife." That woman can be repudiated at will by her husband is a stern Oriental fact and in the train of polygamy, and that fact Mosaism reduced to its minimum. The general moral view is given in Genesis, II., 24: "Therefore shall man leave his father and his mother and cling to his wife, and they shall be one person." The moral and the legal Mosaic views are wise, pure and beneficent, showing great solicitude for the right and dignity of womanhood.

MOSAISM AND THE ORIENT ON WOMAN.

Studying carefully and independently these verses, V M., 24.1-5, and without being biased by ancient or present customs, or by the comments, sacred and profane, on that theme, looking to the text here and in I M., 2.18-25, that allegory on womanhood and its closing morale, considering at the same time the Mosaic view of man, woman, matrimony, her relation to the husband and position in the family and state, I believe that the Shammaite School and the Agadists have correctly interpreted the clause,¹ "He found something shameful in her," viz: That it really, literally and morally means that a man can repudiate his wife only on the ground of indecent conduct. Good exegesis, common sense and morality coincide with that. The Hillelites sided with the then practical oriental usages, whereas our text upholds the law of nature and of God, as in Genesis, I., 24, making woman the helpmate and companion of man, not his toy and colibri, to be dismissed at a despotic whim.

Nevertheless, this very passage was stamped as a standing reproach to the Bible, by ignorance and prejudice claiming that Mosaism has degraded woman, has put her at the mercy of a brutal husband, as his mere dependency, as fashioned from his bone, an afterthought of creation, his drudge, toy and slave, to fill his polygamous harem, intimating that she has brought him

sin and misfortune as her dower, and that therefore she is justly and naturally liable, at a moment's notice, to be sent off upon any of man's caprices and whims. Now facts and history show the very contrary: The woman of Asia, long before the Bible, was deemed and assumed as a being without rights or duties, or any moral sense; a toy and a drudge; no marriage and no legal separation, but simple possession; or cast off as a garment—by the mere whim of her master. The fact is: Woman was indeed uplifted by the Bible, declared a moral, intelligent, soul-gifted being, the worthy half and helpmeet of man. A toy or a drudge she was in Asia; even such was Greek Pandora; such even Helena, the ideal Greek woman; she eloped with her lover; brought destruction upon both, her old and her new country, Sparta and Troy, and betrayed them both at the crisis of the war. So she is depicted as a mischievous creature, made for man's misfortune. Still her husband, Menelaos, and she were to be translated to Elysium; the unworthy, the "*dog-eyed*," still the daughter of Zeus.¹

Of another texture is the Biblical woman: "It is not good man shall be alone, I shall make him a helpmeet" . . . and man actually accepts her as such (Genesis, II., 9-25). Mankind, the species, man, is made of male and female, both to work, multiply and rule over the earth.

The same view we find here (V M., 24.1). Anciently, woman was unfree, bought by the master; there was no free choice, no marriage of two free parties, and no mutual selection and consent. The master possessed her, or sent her off, or maltreated her, or even sold her again to another master, or took her back, all on the same one-sided terms. Our chapter greatly modified and improved these conditions, in favor of womanhood; assuming a new standpoint, a new principle and arriving at new results; viz: She is a free person, has rights and duties, is a wife, not a toy, nor drudge, and she can be repudiated only for a grave cause, viz, *Ervath dabar*, a shameful thing which may mean, possibly, infidelity, or at least flagrant indiscretion, inde-

¹Homer's *Ilias*, VI. 343 . . . and Homer's *Odyssea*, IV. 561 . . .

cent conduct. Then she shall not be poisoned, stripped and whipped or killed, or sold as a slave, as in other codes,¹ Oriental and Occidental. No! but by legal procedure, after public judgment, a letter of divorce is to be handed to her, before witnesses, after due time and reflection; not by caprice and the spur of passion. The next provision is: If after repudiation she be remarried to another husband and becomes then again free, she cannot remarry the first husband, for that is beastly, unworthy of the conjugal union and of civilized society. It degrades woman again to a drudge and a toy, a slave and chattel of a brutal master.

Looking now to the present practice on such occasions, we hear generally two theories prevailing. When there arises personal dislike from incompatibility of character, or unproved immorality, some codes declare for no separation at all, and the yoke to continue; hence quarrel, scandal and murder, a poor example to the children, and marriage whispered or proclaimed a curse and a failure. Another mode is: Easy accommodation, frivolous decree of divorce with gossip, malicious chuckling, bitter regret and sacrifice of the children, innocent victims of easy-going society. Our text seems to allow but indecent, immoral conduct as a cause for divorce, only then it prefers separation, in the interest of marriage, man, woman, the children and the community, and that seems the best to be done in the doubtful and equivocal circumstances of an insincere union.

SHAMMAITES, HILLELITES AND LATER RABBIS ON IT.

We have spoken of the Shammaite view. The Rabbis, following rather the School of Hillel, take a middle course between these two extremes mentioned. Influenced also by the general practice of the times, on the one hand they accept many grave causes as a ground for separation, and on the other they morally persuade parties to have patience with each other. Grounds for divorce are: Infidelity, barrenness, incompatibility, gross

¹See Tacitus, *Germania*; Roman XII Tables or Code Justinianus on that. The old Teutonic German stripped the adulteress, chased and whipped her through the village, even to death.

frivolity of character and irreligion. After careful deliberation the Judge grants a letter of divorcement, and she leaves the house. This is the Rabbinico-Hillelite way of considering marriage and divorce. Its standpoint is not the advanced Bible ideal, but practical necessity, general usage.

Otherwise is, no doubt, the Biblical view; this is the indissolubility of the matrimonial union. The allegory is (I M., 2.23): "Bone of my bone and flesh of my flesh—both forming one person." And this ideal of the conjugal bond is generally followed up in Pentateuch, Bible and Agada. The history of the Patriarchs does not militate against that. It shows rather that their decided personal inclination was towards monogamy and that they were not the authors, but the victims of the public institution of polygamy and serfdom, then universally prevailing. So was Abraham, by custom prevailing then, compelled to act, and so Jacob; they became polygamists not voluntarily, but by the force of law and circumstances, *vis major*. Isaac was and remained a monogamist. The Israelites of the II. Commonwealth were prevailingly and generally a monogamous people. There the women were well treated, and so were the slaves also. Josephus narrates that Gentile women of his time were, on that account, favorably disposed towards Judaism. Such were the women of the leading cities: Alexandria, Antiochia, Damascus, Athens, Rome. And that favorable opinion of Judaism brought them soon to the fold of—Christianity, an abbreviated, mitigated Judaism, Judaism without its host of ceremonies, national observances and racial reminiscences. They sighed for that religious, moral and social uplifting; to exchange the position of Pandora for that of Eve, the mother of the family and man's companion, wife and helpmeet.¹

Among the Jews in the Orient, following the example of the Mohammedans, rare, isolated cases of polygamy were yet to be found, until, in the thirteenth century, Rabbi Gershom and the Western Rabbinate prohibited it entirely and it became extinct.²

¹Gen. II & III עצם מעצמו—עזר כנגדו—אם כל חי,
²חרם דרבנו גרשם

In later years of the Middle Ages and in the East even recently, frivolous marrying and divorcing, even without the consent of the woman, were practiced. That found its authority among some Rabbis of the Gaonic period, leaning to the view of the Hillelite School, that a man can repudiate his wife even for any trifle, wilfully, when she had burnt his dinner, or even if he found a prettier one. But gradually a soberer view, in conformity with the Pentateuch, Prophets and Agadists prevailed, that marriage is a most sacred institution, the groundwork of society, and that only gross immorality or decided incompatibility of character justify divorce; which divorce, if imperious and necessary, must be consummated by an official act and document, from a competent Court of Justice. By all this, viz: Careful selection and courtship, solemn public marriage, absolute union of interests, no frivolous divorce, nor marrying and remarrying, and divorce only on extreme, grave grounds, matrimony was strengthened. All that tended towards the elevation of woman, marriage and the family, to make the Jewish conjugal union a golden bond of happiness, not a chain of misfortunes. The Biblical marital life has been historically recognized, even in the Ghetto, as the noblest, purest and most enduring. It has become the model and pattern of the civilized world. Morality, wisdom, peace and family interests point to that polity. Catholic France and Protestant England and more or less the rest of Europe gradually steer towards that course. The United States, in Law, and mostly in practice, fully adopted it, viz: That only grossly indecent conduct or invincible incompatibility of character are legitimate grounds for divorce, and that no woman can remarry her first husband after she has had another husband, considering that to be an abomination to God and to civilized society.

The Biblical matrimonial relations have brought about our modern civilized family, so superior to those of 3,000 years ago in Phœnicia, Babylonia, Athens and Sparta, all symbolized by the myths of Pandora and Helena. In opposition to that Oriental myth the Hebrew Agada narrates: "When God was about to deliver the Law to mankind, he convoked all the nations of the

earth and proposed: To which nation shall I entrust that treasure? Who is most prepared and worthy to receive and to hold it in trust for all mankind? Each of the nations shouted: I! I! shall have it. I am strong, I am rich, I am brave! That is not enough, the divine legislator replied: where is woman most respected and most worthy of respect? Where is marriage most sacred? Where is the wife and mother purest, faithful, kind and self-sacrificing? At that criterion the Gentile nations became silent! The Pandora patterns retired and left the arena to Eve, Sarah, Deborah, Esther, the Biblical models of womanhood, and our present civilized society copies these ideals; the modern family has its roots in the Bible.¹

WOMAN IN BIBLE AND TALMUD.

Far superior than in the Orient was woman's status in Judæa, the Bible and the Talmud. There monogamy was the rule, polygamy the rare exception; it could take place only for stated, legally admitted causes. The claim that the Hillelite School allowed indiscriminately repudiation and wife plurality is erroneous. Ever the rule prevailed: "Therefore man shall cleave to his wife, both to form one person" (I M., 2.24). She was the wife, freely chosen and freely obtained; both parties were free and both selected freely. The father, in Judæa, was not allowed, as elsewhere, to give away his daughter without her full consent, except in abject poverty, without any means of supporting her, and this only during her childhood, and he was ever bound to redeem her. The honorably behaving wife and mother could not be divorced, nor a rival set up at her side.

Such was the case of Sara and Hagar. As soon as the first became a *de facto* mother, the latter had to resign her place.² Her children inherited of her and of the father. She could hold property of her own, by inheritance or by gift. Her social standing was in accordance with that, dignified, publicly acknowledged, becoming a free, responsible wife, matron and mother.

¹See my "Biblical Legislation," page 33.

²Such, too, was the reigning law of Hammurabi; see further on.

She was the mistress of the house, advising with her husband, on terms of equality, assisting in building up the house ("A wise woman builds her house"—Proverbs). Such fully recognized personages were Sara, Rebecca, Rachel and Leah; Miriam claimed even prophecy and rivaled Moses in leadership. Such were Debora, Hanna, Hulda. We find woman as a national leader, a warrior, a patriot, a protector of the law and the country. Numerous examples of her bold and magnanimous initiative, her aggressive, chivalrous heroism and self-sacrifice are narrated in Sacred Scriptures and Apochrypha.

In the Talmud we find many fluctuations concerning woman's legal position and civic standing, vacillating between that of the Biblical and Egyptian, Occidental standpoint, and that of the Oriental, Babylonian and Arabian one. Morally, the Jewish husband was bound to act up to the Mosaic pattern, monogamy: "Therefore shall man leave his father and mother and cleave to his wife, and form with her one person, one unit." But legally he could follow the general custom, influenced by the Statutes of the Babylonian Hammurabi then prevailing in the Orient. Even this Statute did not allow divorce by caprice. The Jewish Moralists are following the view implied in: "Man shall cleave to his wife," as alluded to.

We add here a few passages culled from Talmud and Midrashim: "Ever make an effort to marry the daughter of a learned man.—A good woman is sympathetic and modest, talks in a low voice and never laughs boisterously.—When in want, she must first be provided; in captivity, she first be ransomed; man comes after woman.—He who is not married is hardly a (complete) man.—A single man knows not happiness.—A wife is the house of a man.—A man shall first learn a trade, then build a house, then marry a wife; fools act in the contrary way.—Woman is man's joy, solace and ornament; with her comes good luck.—To wrong her, to repudiate one's first wife, even the mute stones of the altar shed tears.—Israel was redeemed from Egypt on account of their virtuous women.—The *Thora* was given to Israel on the same consideration.—That house is blessed where woman

is well treated and respected.—Is she of small stature, man shall bow to her; if tall, he shall rise to her.”

But contrary passages, describing her as vain, loquacious, idle, light-hearted, prying, fond of display and of gossip, are not missing, either, in the Talmud. Still, on the whole, her social position is by far higher than elsewhere in the entire Orient. Generally she is pictured as the granddaughter of Eve and of Sara; not seldom as inferior to man, his ward and dependency; but never as mischievous and wilfully wicked, born for man's misfortune, as is the Greek dubious woman-pattern, Pandora. In the Agada she is either a reliable stay and helpmate to man, or his innocent, pleasant, garrulous dependency; but never is she viewed as a she-devil, a Circe, Loreley, as is her Greek cousin. The saying is: “Every man has the wife he deserves.” God said, I shall make for man an assistant, a *help, opposite* to him.¹ The Rabbis wittily expound: If man deserves, she is a solid help; if not, she is an opponent. The Psalms, Proverbs and Apochrypha refer often to her in both modes. She is the emblem of the best, noblest, kindest and purest. She often impersonates wisdom, virtue, intelligence; the mystical *Shecina* is the Deity in female drapery; angels are ever imagined in the shape of woman! She is the pattern of beauty, grace and sympathy. She is the masterpiece of creation. The Hebrao-Arabian Mohammed often rapturously and explicitly terms her God's earthly masterpiece. Goethe alludes thus humorously to her in his “Faust”: “When a God toils for six days and then shouts Bravo! applauding himself, that must be something superb!” But this he puts into the mouth of Mephistopheles, the arch-devil.

At other times Sacred Scripture² warns most gravely: “Beware of her tricks, snares and beguiling charms, her Siren songs and her Scylla and Charybdis precipices.” But with this great difference: What the Greek Pandora-myth assumes as the universal characteristics of the sex, Bib leand Talmud attribute to

¹*Ezer Kenegdo*, literally, a help opposite to him; essentially it means, an assistant by his side. The Rabbis expounded it both ways, implying a deep psychological observation: Each party has the consort it deserves.

²Prov., and more so, Apochrypha.

personal, special depravity, as exceptional traits, as the picture of a degenerate female exemplar.

Sometimes we find in the Talmud a passage of a full-length female portrait, apparently of the Pandora delineation and pattern, as this: Converse not much with woman . . . even with thine own wife, the less so with thy neighbor's spouse . . . and who transgresses this will remember it in hell."¹ This is a gloomy view; still it is not the Greek view of female depravity, original and constitutional; here is not so much the distrust towards the sex, as towards sinful, wicked human nature, the weakness of all flesh, without regard to sex. We must here reckon with the ardent temperament of the Oriental, the Arab and the Babylonian, which the Mishna had in view. Here is, moreover, the Asiatic pessimism re-echoed, which the Jewish minority could not help imbibing from their Arabian and Syrian surrounding majorities. Such warning was not meant, specially, as a censure of woman, but generally as a timely challenge for moral self-restraint, for avoiding any and all frivolous gossip. "Woman" was here simply an emblem of passion, just as on other occasions, she was the symbol of wisdom, grace, kindness. On the whole Talmud and Agada, though legally they were mostly following the trend of surrounding Babylonian views, and granting to man prerogatives over woman, still practically and in fact they came up to the only rational view-point of the Bible: "God created man in his own image (intelligent and moral); he created them male and female, two halves, completing each other, and blessed them, saying: Multiply and increase, subdue the earth and reign over it . . . and that was very good."

As to the later passage in Deuteronomy concerning divorce, we shall subsequently see that divorcement was far from being an original Mosaic institution. No; it was an old custom, rooting in the habits, views and laws of the times with which the Mosaic Lawgiver had to reckon. That general Oriental custom crystallized into law, he circumscribed, mitigated and bound up to norms, removing them from arbitrariness, but taking into ac-

¹אל תרבה שיחה עם אישה, אשתה, ל' אשת חבירה, וסופו יורש נהינים ¹Aboth

count "man's hardheartedness." He made every effort to harmonize it, as much as possible, with the higher Biblical view of justice, freedom and equality of both the sexes. And this higher and correcter standpoint gradually grew and expanded in and beyond Judæa, to Western Asia, Europe, North Africa and America. It expanded with the corresponding expansion of Christendom, the dissemination of the Bible, with its emancipating doctrines and enfranchising new principles of right, dignity and protection to both the sexes and to all the classes alike, as we shall later on enlarge, here and on other occasions.¹

And this settles the discussion about the old question, which raised most the status of woman? the Hebraic Bible or Gentile Christianity? The Bible, undoubtedly, rescued and elevated her condition from Oriental degradation, caprice and lawlessness. It did that theoretically, by its ethical doctrines of man's and woman's divine creation, common origin, common dignity, and their practical, human, purposeful object, both to "work and to reign." Christianity continued and expanded that view, by bringing that Hebraic, Biblical view and ethics into the reach of mankind at large, educating the Western races to that higher, new view-point, that new revelation of human dignity and the equality of the sexes. The task of human civilization, of mental and moral education, of emancipation from despotism and prejudice, is vast and grand enough to satisfy all claims and the ambitions of all our historical initiators. There is room for every effort and every noble activity. Let there be no jealousy. Let every creed, race and age do the best for human advance. There is reward in the stores of Providence for all liberating forces.

¹See Esther and woman's position, in my vol. on "Biblical Holidays."

CHAPTER VI.

Rabbinical Marriage and Divorce Laws.

Maimonid. Yad Hahs, Marriage Laws: (I.) Since Israel has received the Thora, when a man wishes to marry a woman, he first must acquire her before two witnesses; then it is lawful for her to become his wife. (II.) This acquisition takes place in three ways: by money, by a written contract and by cohabitation. This acquisition is termed consecration or betrothal.¹ (III.) Then the woman is to be considered as married, though she is not yet in the house of her husband . . .

(5.) Leviticus, 18., enumerates many cases of incest, viz, cases when conjugal unions are strictly forbidden (as an abomination), on the penalty of extirpation, *Choroth*, . . .

(6.) There are, besides, some rabbinically forbidden marriages, incest of second degree; making up all together 20 cases of incest or Talmudically forbidden marital unions (besides the Biblical ones) . . .

(7.) The penalty for trespassing some of these cases, prohibited by the Thora or Sacred Writ, is extirpation. But of some it is, besides, rabbinically, 39 stripes. Some such cases are prohibiting ordinances, and some others are affirmative ones.

(II., 1.) A girl is, from her birth until 12 years of age, a minor; after 12 (and one day) years and the appearance of the signs of her puberty, she is a young girl, *Naare*; and after 12½ years of age she is termed adult girl,² young woman.

(3.) Such she is when she has the natural signs of puberty. If she shows no such signs, she remains a minor till her twentieth year, which period may be prolonged even to her 35th year (when she is assumed as naturally impuber, but adult).

(10.) A boy is from his birth to 13 years of age, a minor; after 13 years and bearing the signs of puberty, he is an adult, a man (assuming all the rights and duties of such).

קדישן וארוסין

קטנה, נערה, בוגרת²

(11.) But if the puberty signs are not conspicuous at 13, then he remains a minor even to 20 years, and even so further on to 35 years of age (when he is assumed as naturally impuber, but an adult).

(III., 1.) The act of consecration or acquisition of a wife must be performed by the man, in handing to the woman at least a *Prita*, about a cent, or its value in goods, saying: "By this be thou consecrated to me," in presence of witnesses. (This is the actual legal part of the matrimonial transaction.)

(3.-5.) Or he writes down these words, as an express agreement, and hands it to her before witnesses. The same is the formula of the third mode of consecration (mentioned above).

(6.) Whatever the consecration words be, they must ever convey the clear idea that he, the man, acquires the woman as his wife, not that he gives himself away to her as husband etc. (thus maintaining the Oriental idea of buying a wife).

(8.) This marriage formula may be pronounced in any language she understands.

(11.) A father may marry away his minor daughter, without her consent. (This Oriental, hoary right is limited to a minimum by the Rabbis and rarely practiced. Elsewhere it was frequently practiced by parents.)

(12.) If she is 12½ years old, an adult woman, she is free and independent, and cannot be married without her consent.

(18.) The marriage consecration actus can also take place by proxy, and of both the parties (each authorizing a delegate to contract in his or her stead).

(19.) But it is more becoming that the parties perform it by themselves, personally. Nor should a father marry away his minor daughter without her consent, though it is legal. It is ordained by the Sages that both parties must be adult, both give their consent, after having seen and pleased each other.

(20.) The custom is that marriage takes place by money or money's worth, or by written contract, but not by cohabitation (the marriage ring is a later custom, at least so among Jews).

(22.) There shall also be courtship of the parties before marriage.

(IV., 6.) A marriage before one witness, or no witnesses at all, or illegal witnesses, is not valid.

(8.) A minor girl married to a man and displeased with him, must say before two witnesses: "I like him not," and leave him without any further document of divorce (*Get*).

(12.) The marriage of an incestuous couple, in first degree, is null and void.

(14.) Incest of second degree (only rabbinically forbidden, an extension of the original Biblical prohibition) is legal. So are the marriages only negatively or affirmatively¹ prohibited.

(15.) Marriage between Jew and heathen (idol worshippers) or Jew and slave, either side, is null and void. Marriage with an apostate party is binding.

(X., 1.) The betrothed woman is forbidden to her intended, by rabbinical ordinance, as long as she is in her father's house. He must bring her to his house, and be with her, as his wife. This union is termed: Occupying the *Hupa*, the nuptial room (usually symbolized by the canopy where the nuptial ceremony takes place).

(2.) After that she is his wife in every respect, and is termed a married wife from the moment they have entered the *Hupa*, if even the cohabitation have not yet taken place.

(7.) Before the final marriage, the bridegroom obligates himself in writing, termed *Kethuba*, to a certain sum in favor of his bride, no less than 200 dinars to a maiden, and a hundred to a widow. He may increase the sum as much as he pleases, *Those-foth*; the original sum and the increase are equally valid.

(XVI., 1.) The wife's dower brought from home, *Nedunya*, is extra that promise. If the husband is responsible for its safety, he can administer it. If he is not responsible, she alone disposes of it.² (The usufruct belongs to him in either case.)

(2.) Even so is all other property of the wife, not given to the husband, and come to her after her marriage, all remains her own property and is to be disposed of by herself, the husband having no power over it.

¹*Issurai lawin, We-Essin*, prohibitive and affirmative commandments.

נכסי צאן ברזל, נכסי מקו"י

(3.) As to the *Kethuba*, that constitutes a debt of the husband to be paid when he dies or when he divorces his wife. (So is the dower she brings from her parental home.)

(XVIII., 1.) The widow is to be supported by the heirs during all the time of her widowhood, until she receives her legal endowment, *Kethuba* and *Neduniah*, or personal dower. As soon as she asks for that, she loses her right for support.

(XIX., 1.) It is a condition of the *Kethuba* that the sons of the deceased wife inherited her legal endowment, or *Kethuba* proper, as also her extra personal dower, which she had brought in at her marriage. (*Nedunya* and *Kethuba* both are known to the Hammurabi Code, 2250 B. C. In fact, many marital enactments are common to both.) This done, they inherit of the father's estate in equal shares with their brothers (of the other wives of the father).

(2.) This takes place only when, after paying off such wifely endowments, there still remains something to be divided out as inheritance to the sons from the father, which is a Scriptural duty (and must be fulfilled).

The reader will see that the drift and spirit of these marriage and inheritance laws are hoary, conceived in the Oriental atmosphere, that of polygamy, with divers sets of children, many families and households and interests under one *pater familias*, the jealousy among the heirs and the rapacity of the several stepmothers and wives. Hence the great anxiety of the law for the interests of the juvenile orphans and heirs, and its suspicions of designing, unscrupulous stepmothers and quarrelling multiple widows of the same husband, now in the grave.

(2.-5.) Before she receives her dower etc. she is to be, by the heirs, supported, clothed, furnished and housed, in the same dwelling and with the same furniture and slaves as during her marital life; she uses the identical house, household goods, slaves etc. that she did during her husband's life . . . The heirs cannot sell that dwelling, utensils, furniture; as long as they are of usage she uses them. When sick she must be taken care of, and when dead, honorably buried by the heirs.

(XIX., 10.) It is a condition of the *Kethuba* that the daughters are to be supported from the father's estate, until their betrothal or adult age.

(11.) Of the same fatherly estate the daughters receive their food, clothing and dwelling, just as the widow does; for such support of the widow and her daughters the father's estate is sold, even without public auction, *hakhrusa*, with the only difference that the widow is supported according to (her and her husband's) dignity and station, whilst the daughters obtain only just the necessaries of life. They are not obligated to any oath, whilst the widow is to swear that she has not misappropriated anything of the estate not hers.

(12.) That support etc. of the widow and her daughters, and the inheriting by her sons of her endowment and dower, takes place only then when the *Kethuba* etc. documents are produced. If such documents do not exist, it is assumed that the mother had resigned them. But if it is not customary to write the *Kethuba* (relying on the public law on marital rights), then it is valid (a sort of tacit right, presumption).

The endowment and the free-will increase are treated alike. Whilst the home-dower is rather neglected, lightly and differently treated, because it is contrary to the spirit of the Orient for women to bring to their consort any dower. We must not forget that Judæa and Babylonia are close upon Arabia, where custom established and Mohammed's laws confirmed that the husband gets his wife *best* from the slave-merchant! Such were then the peculiar conditions of society.

(XX., 1.) It is a rabbinical ordinance to endow one's daughter and have her married; all according to the father's means. About 10 per cent. of his property is the assumption. (The reader will remember that only sons inherited, not daughters, when sons existed. This is in order not to alienate the family acre and pass it unto another clan, if the daughters would inherit. Their marriage portion was their sole inheritance. Here, too, is Oriental spirit prevailing. The antique agrarian laws dictated that: The man continued the family and the name, the woman stepped out and helped building another family and

name; hence no inheritance, besides the marriage dower. Apparently in hoary times man bought his wife and got no dower. When marital candidates became rarer the fathers had to supply a dower for their daughters, just as now in the Western world.)

(2.) If the father is dead, his heirs estimate the extent of his liberality, and have her endowed and married according to that estimate.

(XXI., 1.) The profits of the work of a wife or whatever she gets, belong to her husband. Her work is just as custom prescribes in each country. If no work is customary, she is still held to spin wool (idleness is prohibited, the same as loafing, gossiping or coquetting.)

(2.) However large her home-dower may have been, she must not idle away her time, because idleness induces immorality.

(3.) For that same reason no husband shall bid his wife to do nothing; rather shall he dismiss her and pay her the *Kethuba*. Every wife, even the richest, shall assist her husband at his toilet, at table, bed and drink, in all domestic activities, and in her leisure she spins wool; all in private, not in presence of, even, relatives (*i. e.*, in public she is the mistress, *domina*; in private, the wife.)

(4.) All that *she* is to do and none else shall do it, however many servants she may have brought him; such are the special wifely duties.

(5.) Poor men's wives have, besides, to do the baking, cooking, washing the clothes, suckling the children, tend to the domestic animals and grind the flour etc. If she brought him property or slaves, her work is decreased in proportion.

(XXII., 1.) The husband inherits of his wife before everyone else.

(7.) Of all the property of a woman the husband enjoys the yearly produce, as long as she lives, and when she dies, he inherits all. If she sold anything of her private property, he is anyhow entitled to the produce (of the real property) as long as she lives; and when she dies he gets the property back of the

buyers; he is to return to them the purchase price she had received.

(8.) Outside property of hers (of which the husband never took any cognizance) is definitely sold and valid.

The reader will hold in mind that all these intricate laws of husband, wife, wives' sons, daughters and several sets of children from different wives, are the awkward and baneful results of the old social and domestic curse of polygamy, dominant in the Gentile world, hence in part in Israel, too, and against which environments the law struggled as well as it could.

RABBINICAL DIVORCE LAWS.

(*Maimonides Yad. Divorce Law.*) Following up other texts, but chiefly that of V M., 24.1, largely discussed above, the Rabbis enacted that:

(I., 1.) A wife can be divorced only by a written document, delivered into her hands, called "*Get*." Scripture requires there these ten things: It must be done with the husband's free will; by a written act, declaring that he divorces and dismisses her; that she is definitely repudiated by him; the *Get* is to be written expressly for that purpose and for those persons, lacking nothing else but delivery to her; it must be delivered to her; handed before witnesses; expressly as a letter of divorce; either the husband or his proxy should deliver it to her; other moments of the repudiating instrument, as the time, witnesses etc., are further rabbinical requirements (not mentioned in the Scriptures, but supplemented by the Rabbis).

(2.) The husband divorces her only by his free will; the wife is divorced with or without her consent. (This last clause is the legal Oriental view, but the rabbinical morality rejected it.)

(II.) In delivering to her the document he is to say to her: "This is thy letter of divorce." (All this is to be performed publicly.)

12.-15.) It must be in presence of two witnesses, after reading it in their presence. Two witnesses must, furthermore, undersign the document.

(24.) Besides, it is rabbinically required that the names of the witnesses be mentioned in the *Get*; they must sign their names in presence of each other; the correct and explicit time and place must be mentioned therein, also, and the customary era of the country. Some count after the Jewish Era (Creation), others by that of Alexander, the Macedonian (Seleucidæ). Many more details are prescribed for divorce.

(II., 20.) Whenever the Court of Judges deems it best and most reasonable for all parties concerned that a man should divorce his wife (in order to avoid some greater complications), then the Court may enforce even blows and compel the man to say: "I will (divorce her)," whereupon the *Get* is to be written and delivered, and is valid; provided that it is just and moral and that by Scriptural ordinance he is bound to divorce her.

Many hundreds of such sections of law have been enacted by the Rabbis on that head; an entire treatise of the Talmud, *Gittin*, is devoted to it. All possible and impossible cases are provided for, carefully discussed and settled; the juridical instrument proper, the *Get*, letter of divorce, is minutely discussed, settled and described; the style, or formulæ, the words, the paper, the ink, the shape and length of the letters, all with the utmost details and punctiliousness, to do it according to law, and apparently with the object of tarrying and give the parties time to reconsider! And that external anxiety in form and shape and style, proves the real inner anxiety of the rabbinical legalists and sincere moralists. It shows their conscientiousness and their scruples; that the one-sided, Oriental practice of divorce is wrong and faulty; that it does not square with the Mosaic morality and its theory of marriage. They felt that Biblical morality allows no repudiation, without grave cause, that the Asiatic and barbarous custom of polygamy and of one-sided divorce are heathen twins, resting upon force and slavery, not upon reason, right and freedom; and that the true view of the Pentateuch concerning husband and wife is: "Therefore shall man leave his father and his mother and cling to his wife, and they form one person" (Gen., 2.24). This natural and Bib-

lical moral view, the Shamaite School recognized as the only correct one, as the only true base and standpoint of a healthy marital legislation, conducive to social welfare. Hence that school stated that only infidelity may be a valid cause for divorce; otherwise the conjugal tie is eternally binding and indissoluble. Whilst the practical Hillelite School took Genesis, II., 24, only as an ideal, a morale, *pium desideratum*; practically, they followed the general, Oriental customs, that a man can repudiate his wife at his own will and for any cause he pleases. For long the Jewish Courts hesitated between these two views, hence the anxiety, diversity and multiplicity of the divorce provisions, so as to give parties leisure and time to reflect over the baneful results of separation, and see whether a compromise and peace are not preferable.

THE BAN OF R. GERSHOM—THE MARRIAGE RING.

Thus, the general, Oriental matrimonial practice—in contradiction with the literal and the moral sense of I M., 2.24, and V M., 24.1 followed in Judæa also—contained several grave defects, viz: I. Polygamy, a man could marry several wives, together; the man married the woman, she did not marry him; whilst in the historical chapters of the Patriarchs we find monogamy to be the rule and polygamy as an anomaly, ever brought about by exceptional causes. II. Divorce; divorce without cause, or without good cause. The Bible states the only cause to be *Ervath dabar*, immorality. The Hillelites were accommodating, and, following the general custom, they allowed divorce, even "for burning a dish, even when finding a prettier woman."¹ III. The man could repudiate without the consent of the woman; the least justifiable enactment, the most cruel blow to woman's position and dignity. Happily, the logic and the morality of the Pentateuch gradually prevailed over barbarous polygamy, and practically it has long ago gone out of usage in Israel. Marriage and divorce were slowly being regulated by the moral sense of the Bible, though the rabbinical Oriental concessions still lingered

¹So the Code of Hammurabi mentions divorce as a matter of course, the husband's privilege, the right of the stronger.

on; occasionally polygamy and one-sided divorce were yet to be met with among the Jews of the Orient, and even in the Occident, until the advent of R. Gershom, who did away with that.

Rabbenu Gershom, son of Jehuda (960-1028), was the great Talmudical authority of his age, an age not much distinguished for high culture, rabbinical or scientific, among European Jews. He and his brother, R. Macher, had come to the Rhine provinces from Southern France, and imparted there the stimulus to higher education. He settled in Mayance and established there a Talmudical Academy, whereto many students flocked. He was termed the "light of the Diaspora." He was an excellent Talmud-teacher, wrote, first, popular commentaries thereon, and was soon recognized as the rabbinical authority there, the *Gaon* of the West. It is this R. Gershom, of Mayance, who enacted several important improvements in behalf of the Western Jews, and it was he who abolished legal polygamy. He furthermore declared that the woman's consent to the divorce is necessary; those transgressing that shall lapse into the ban and be excommunicated. And though he enacted this on his own authority, the Western Jews accepted his decrees as if coming from the Synedrion. It became law. The moral sense of the Pentateuch had conquered and stimulated the civilized world, Jew and Christian. The deep sense of I M., 2.24, and of V M., 24.1, long ago correctly interpreted by the Shammaites, at last was grasped and accepted; polygamy and forcible repudiation were branded as illegal and wrong and ousted, though cautiously, from Israel's Code.¹

There still remained one link and vestige of that old chain of slavery and polygamy, in the marriage ceremony and its formula, viz: There the bridegroom places a gold ring upon the finger of the bride, with the words: "Be thou consecrated unto me by this ring conforming to the customs of Moses and Israel." That had once its literal sense; it meant that the woman was acquired by the man,² that she consecrated herself to him and

¹R. Gershom's Laws. Kol-bo, 116; Responses of R. Meir Rothenberg.

²אשה נקנית

owed to him her all; he was bound to her just as much as he was pleased; he could marry other wives, besides her; he could put her aside or divorce her; in one word, the marriage contract was one-sided, not, by far, the Biblical one of mutuality and spontaneity. It was left to our present time to stop that loophole of polygamy, and ordain that marriage is reciprocally and equally binding. The bridal pair interchanges rings, each saying and accepting the dictum: "By this ring be thou consecrated to me as my spouse" etc. This answers fully to the Mosaic ideal; it took over 3,000 years to make the ideal real.

V M., 24. AND 25.—SUNDRY LAWS; LEVIRATE MARRIAGE.

Chapters 24 and 25 of Deuteronomy contain many more verses bearing upon our theme, the humanity and charity of the Pentateuch, themes which we have discussed already, either in this treatise or in the preceding one ("Spirit of the Biblical Legislation"). We shall give them here but a cursory mentioning: (V M., 24.5): "When a man has recently married a wife, he shall not go forth in the army; he shall be exempted . . . and stay at his home for a year, and render his wife happy."—No modern lawgiver ever had such a humane consideration.—(24.6): "No one shall take in pawn the stones of the mill, for that is pawning life."—We have seen here in rudiment the Exemption Law of Mosaism.—(24.10): "Lending thy neighbor anything, thou shalt not go into his house to fetch his pledge; but thou shalt wait outside, and the man, thy debtor, shall fetch and bring out to thee the pledge."—(24.11): "And if he be poor, thou shalt return it to him at sunset for the night . . . that Ithv may account that to thee for righteousness, and bless thee for it."—How considerate the Lawgiver is in the first verse for the feeling of the poor, and how provident he is in the second one for his humble comfort!! Where do we find such a humane remark in the Roman Twelve Tables, or in the Laws of Hammurabi, hardly even in a modern Code?—(24.14): "Thou shalt not withhold the wages of the poor, be he thy brother or a stranger (non-Jew), but thou shalt pay him, daily, his wages, for he is destitute and his soul is waiting for that,

lest he may cry to God on that account, and that will be imputed to thee as a sin."—How finely is here religion enlisted in the cause of justice!—(24.16): "The parents shall not die for the children, nor the children for the parents. Everyone shall die for his own guilt."—Babylonian, Phœnician, Roman, even European Mediæval laws, made the entire family responsible for the guilt of one of its members.—(24.17): "Thou shalt not bend the right of the stranger (non-Jew) and the orphan, nor take in pledge the dress of the widow. Remember thou wast a (poor) slave in Egypt, therefore God bids thee (be sympathetic) to do this."—Think a little: In this twentieth century our laws and our practice discriminate yet between native and foreigner, co-religionist and not. Mosaism pleads for the rights of the native poor, the Gentile poor, the orphan and the widow, in one line, in one and the same breath! And not alone for the justice due to them, but also for charity, to be extended to them all alike. The Rabbis recommend the same justice and the same charity, as due to everyone, without any creed discrimination. So we read (24.19): "Part of thy wheat crop, thy oil crop and thy vine crop thou shalt leave to the stranger, the orphan and the widow. Remember thou hast been a (poor) slave in Egypt. Do thou this (and be sympathetic)."—(V M., 25.1-3): "When men will quarrel and be summoned before the judge . . . and it will be deemed fit to beat the guilty party, then the judge shall cause him to lie down, in his presence, and be beaten, according to his guilt, to the number (of) forty stripes, not to exceed; lest, if he should exceed much over that—then thy brother would be lowered in thine eyes."—What sympathy with a poor sinner, punished, he is still thy brother!—(25.4): "Thou shalt not muzzle the ox when he thresheth (thy grain)"—So plain, yet sublime; sympathy even with brutes.—(25.5): "If brothers dwell together, and one of them die without child, then the widow shall not leave the house and go to a stranger; her husband's brother shall marry and take her as his wife. And the first-born child (born of that marriage) shall succeed to the name of the dead brother, that his name shall not be blotted out of Israel."—What grand benevolence, charity and wisdom are here exhibited to

the dead brother, his poor widow and his posthumous, adopted child! His wife shall not be estranged to his and her home, and his name shall be perpetuated by the child; his farm shall not be alienated, but stay together with his name, his wife and his heir. So many considerations are centralized in one focus! What a noble, sweet, generous sympathy, not sentimentality! It is an effort to immortalize the dead in this terrestrial world, to link together the members of the family, the soil, the past and the future, the individual and the nation, into one indissoluble tie of solidarity. Still, in the face of such a code of fellow-feeling and broad humanitarian kindness, should their would-be critics reproach it with lack of sympathy?¹

SOME GLEANINGS IN BIBLICAL BENEVOLENCE. SYMPATHY
WITH THE POOR.

(V M., 15.1): "At the end of (every) seven years thou shalt hold a year of release;" viz: "Let every creditor release his hand from the loan he had made to his neighbor and not press (for payment) his debtor, his brother (for what he has lent him), for it is a release instituted by God. The non-Jew thou canst press, but what thou hast lent to thy brother, thou shalt release thy hand from; that there may be no paupers among you (no eternally debt-ridden class of people), and that God may ever bless thee in thy land" . . .

We have previously² treated at large of this most important and far-reaching socio-economical institution, as the cure of the ever-recurring "social problem" in ancient, in modern and in present times, the question how to avoid the eternal clash between the rich and the poor. We have seen that Communism aspires at the Utopia of altogether abolishing property, forgetting that with that is also abolished the stimulant to work, to effort, and then society would starve. Others, as Lycurgus, the Nazarean Ebionites, or J. J. Rousseau, Fourier etc. have tried to limit and curtail individual needs, and thus make over-acquisition and fraud useless; but that leads rather to universal pau-

¹See my "Bible Legislation" on this, page 179.

²See here above . . . and "Bible Legislation," page 83.

perism than well-being. The Pentateuch proposes another remedy, viz, acquisition, not accapuration; the use, not the abuse, of industry and economy. It legitimizes ownership, it consecrates profits and effort, it promises wealth as a reward for goodness, but it ever reminds us of our interest in the welfare of our next, of our social solidarity. Hence our institution: Every seventh year the poor who cannot pay his debts shall be freed of his obligations, his brother creditor shall totally annul and cancel them, for it is a Release Year, proclaimed by divine authority. For six years every citizen works and acquires for himself; in the seventh year he shall cancel all his poor fellow-citizen's indebtedness towards him, and this is ordained for the express purpose "that there shall no eternal pauperism arise among the people." In 15.7, the citizen is earnestly exhorted: Liberally to lend to the poor, not to begrudge him, not cunningly reckon out that when the Release Year arrives he would lose his hold upon his loan or goods; that would be mean. But he is ever to count upon the honest endeavor of the debtor to pay, when he is able. And if he is unable, the seventh year shall annul and cancel the debt. Else pauperism, insolvency and enslavement of the poor to the rich would be the result, and social decadence ruin the State. Even so it was in Rome, Corinth, Antiochia, Athens etc. Sparta alone postponed it for a few centuries by keeping up an artificial contempt of individual hoarding.

The Bible under primitive, patriotic, social conditions, proposes here its own panacea, a heroic remedy. It appeals to the hearty, ethical and rational sense of fellow-feeling, to the true and real interests which rational men ever should have in their mutual well-being. True to its theocratic and ethical State-Church and people-conception, viz, a society for the promotion of mutual happiness and improvement, and standing on the principles of virtue, solidarity and duty—virtue, duty and solidarity are appealed to as the correctives of the social vices. No Utopias, no continual self-sacrifice, no ascetism, no hypocritical poverty and abstinence. No! people shall work and acquire for themselves and their families. But no abuse, no cruel, fiendish competition. Live and let live. Every seventh year and every

seven times seven years hopeless debts shall be canceled, abandoned, and a free, debtless society re-established and maintained. That this has not been tried proves nothing against its feasibility. Future political wisdom may try it yet.

All texts on our theme carefully examined, there remains not a shadow of a doubt that the Pentateuch intended by the Release Year a total relinquishment and definite abandonment, not a mere postponement, of debts. Every seventh year was to efface and blot out all indebtedness, all distinctions between creditor and debtor, and thus make pauperism impossible. Therefore only the fellow-Israelite could enjoy of that great privilege. Of course, this was calculated for an ideal, primitive, non-commercial, wise and unselfish, democratic Commonwealth. Hence, when, after the Maccabean rise, Israel became, especially its millions out of Judæa, largely a great international, commercial federation, Hillel, at the head of the Pharisees, the party of concession, improvement and accommodation to the new environments, had no scruples to disestablish that ideal institution, enacted under quite other, yea, opposite, social conditions. For his time he enacted that the creditor could stay the annulling effects of the letter of the Law, and that a public declaration by the Court made the debt valid and collectible *after* the Release Year had passed. This was the famous Proshbal, postponement and non-forfeiture of the debt. That the Sanhedrin had received a hint to that effect from the Herodians is not impossible.

In corroboration of this far-reaching and, in the Pentateuch, very often alluded-to institution, we read (V M., 15.7), close by: "If there will be a poor man, one of thy brethren, in thy land, harden not thy heart and close not thy hand against thy poor brother. No! open wide thy hand and lend him abundantly, even according to his needs. Take care that a mean consideration creep not into thy wicked sense, viz: The seventh year, 'the Release Year,' is near by, and thou wilt begrudge thy distressed brother, and not assist him, and he will call to Iahv. No. Do give him, and for that sake thy God will bless thee. Indeed, there will ever be some poor in the land, therefore thou

shalt ever be open-handed to thy poor brother, thy countryman."

Reader, search in all the old and modern legislative literatures, peruse those of Hammurabi, Lycurgus, Solon, the XII Tables, the Codices of Justinian and Charlemagne, down to the Code Napoleon, and see if you find a passage comparable to that quoted? Behold a legislation avowedly standing upon the solid rock, the impartial principle of "Eye for eye and tooth for tooth," that teaches: "The poor thou shalt not favor in justice," but consider and protect the poor in *equity*, in his social helplessness. He owes you payment, *if he can*, but not eternal indebtedness, not dependence and final enslavement, generation after generation, ending in wretched pauperism, in the social cancer, our Social Problem! Peruse these eloquent, thrilling, deep-cutting lines. That adamant Lawgiver of the *Lex Talionis*, becomes so softened, so merciful, appeals to your heart and your brain, not at all incompatible with money-lending. Behold, he spares nothing, he strikes hard and long upon the thick crust of egoism: "Have pity with thy countryman, the poor, thy brother, assist him in his distress, reduce him not to pauperism! What a sincere sympathy with human suffering! What a far-reaching, deep and wise insight into political structures. Nineveh, Persepolis, Antiochia, Babylon, Rome and Athens, even Sparta, fell because the rich had lost all heart for their poor countrymen!

JUSTICE AND PITY.

(V M., 16.19): "Judges and magistrates thou shalt appoint in all thy (City) gates, and they shall render judgment justly. Thou shalt not bend justice, not respect persons (not discriminate between parties, so as to spare the poor or to connive with the strong), and not take a bribe . . . Justice only thou shalt insist upon, that thou mayest live and abide in the land God is giving thee."—The very same Lawgiver that is so tender and yielding in the community on the great, altruistic considerations of social well-being, the same is unbending and exacting in the Court of Justice. Here he insists upon justice, strict, accurate,

sharp, equal justice. No two weights and measures, no respect, nor discrimination; to everyone his due! The confounding of justice with sympathy is in part at the bottom of our social wrongs; each is often applied in the wrong place; each, with a selfish background in last resort, wronging one from pity for the other.

To render justice is, and was, perhaps the main task and duty of the State. So in Carthage and in Palestine the King was first termed Judge, *Shophet*, the dispenser of justice (*Mishpat*). Now it is well known how this chief and paramount function was poorly executed in the ancient world, and even today in semi-barbarous countries. Greece was notorious for her corrupt justice. Even Aristides and Phocion fell victims to it, not to speak of Themistocles or Alcibiades. Venal orators and demagogues gave phrases in place of fair judgment. The tragedy of Appius Claudius, Virginia and the Decemvirs, the originators of the XII Tables of Rome, is well known. The Stela of Hammurabi is a monument of partial and corrupt justice by the strong over the weak.¹ The corruption of the Roman Senatorial judges was proverbial. Hannibal, Mithridates and Jugurtha made fun of Roman justice.² But even Cataline, Cæsar, Tiberius and Nero openly despised these Patrician judges, whom Cicero pompously terms: The citadel of the world.³ But the Jerusalemite Supreme Court never was accused of being open to sordid bribery. We read in the Talmud⁴, that the Sanhedrin once cited King Hyrkanos to appear before its court in a suit against unscrupulous Herod, his proud slave-lieutenant, later his son-in-law and last, supplanter and murderer, accused of having unlawfully executed a Jewish guerrilla-leader. The Chief of the Sanhedrin ordered Hyrkanos to stand up during the trial. But his colleagues declined, silently, to concur in

¹See further Moses and Hammurabi paralleled.

²See Sallust, "War of Jugurtha," "Rome the venal, awaiting for herself the highest bidder." Titi. Livi. liber XXI. Hannibal's first harangue in Italy, contrasted with Scipio's: the tiger and the lion quarrelling over the sheep.

³Cicero "Cataline Orationes."

⁴Sanhedrin.

this rigor. Hyrkanos took advantage and had Herod escape from the Court and the imminent risk of a public condemnation. Then the Synhedrial Chief sarcastically reproached his colleagues with their lack of foresight, predicting to them and to the King the future usurpation of that same ambitious Herod. No Roman Senate ever dared to contradict an emperor; Judæa alone well remembered: "Never to bias judgment."

A PORTION TO THE FREEDMAN.

(V M., 15.12): "If thy brother, the Ebrew, be sold unto thee, he shall serve thee for six years; in the seventh thou shalt let him go free. And when thou sendest him free, do not let him go away empty-handed. Thou shalt furnish him out of thy flocks, and of thy threshing floor and thy wine-press, wherewith God has blessed thee. Remember, thou hast been a bondman in Egypt, and God has rescued thee; therefore, I bid thee this (liberality): Let it not be hard unto thee to let him go away free (for double the task of a hired laborer has he worked for thee during the six years¹, and God has blessed thee in all thou didst." Here, too, we find the deep commiseration of the Law with the victims of the great social wrongs. Here, too, it provides against slavery and pauperism. The fellow-Hebrew could serve but six years; he was to be treated humanely; he ever was considered a brother and fellow-citizen; his family could never be enslaved or pawned; and on leaving he was entitled to a portion. The Hebrew maid-servant was treated with even greater consideration.² As to the boring of the ear, in case the Jewish slave obstinately desired to stay with his master, we have discussed it above. That was the general custom in the Orient. The Code of Hammurabi mentions it as such. It may have meant to symbolize the slaves' annexation and identification with the master's family. Perhaps, even under the circumstances, it may have been considered as a virtue of fidelity, adherence and self-sacrifice. So, for instance, when he had a slave-wife and children with her, or any other show of special attach-

¹This is the real sense of the verse.

²See "Bible Legislation" and here above.

ment to the patron. The Talmud considers it rather as a mark of ingrained baseness, servility and moral degradation.¹ This difference of viewpoint is natural. In the Babylonian and the Roman world, renunciation of one's own, original nationality and affiliation with that of the dominant race and the master was favored and hence considered a virtue; in the Judæan world, scattered everywhere, it was regarded as a crime and a shame, apostasy! For Rome and Babylon legislated as conquerors ever do for the conquered; Judæa enacted by sympathetic lawgivers for a free people, dispersed, still ideally united by blood, history and law. Hence the sincerity and integrity of the latter, and the double-facedness of the former. The first consecrated their personal interest; the latter did what is right at all times and in all circumstances, absolutely. Hence, boring the ear was in Judæa a mark of infamy; with the Roman conquerors it was a title of distinction.

THE THREE YEARLY HOLIDAYS.

V M., 16.1, institutes the three ancient yearly, Biblical holidays—the Feast of Passover, that of Weeks, and that of Booths. These were the original, naturalistic, national and agricultural feasts, all connected with the yearly seasons of spring, summer and autumn; with the beginning and the close of the grain and the fruit harvests. They were observed by all antique nationalities and races. The Book of Leviticus adds two further solemnities, originally Jewish, not of a rejoicing and social character, but solely religious and individual, which during the Second Commonwealth and in all the centuries since that time have become the center and climax of Israel's worship—the New-Year and the Atonement-Day.² Some analogy with these Penitential Days we may meet also in the ancient world, but there bear-

¹See Maimonides. *Yad. Treatise. Kings. Hilkh. Melakim.*

²See here above and in my "Bible Holidays." Babylon had a yearly, most solemn New-Year's Day, combining the character of both these solemn days. The Christian churches have no equivalent to these two days. Pity! They greatly contribute to sober out the believer, yes, any thinking person, and, well-utilized, bring moral improvement, a healthier tone, into society.

ing the stamp of rank myths and polytheism; whilst in Judæa they breathed pure monotheism and edification. The leading feature of these first-named three naturalistic festivals are humane sociability, fraternizing nationality, noble solidarity and sweet charity. The adults of the Jewish nation were to appear in the national capital, at its sacred capitol, the Temple, and there worship, eat and drink and be happy together: "Thou shalt rejoice before the Eternal, thy God, thou, thy son and thy daughter, thy male and female servants, the Levite of thy precincts, the stranger, the orphan and the widow residing near you." This means our modern humanity. Here grew up and was cemented the Hebrew nationality, the one confederated people out of the Twelve Tribes, the pattern of the American United States. The creed, the country, the fraternal, tribal and racial unity and, chief of all, the Hebraic solidarity and charity, grew up on this soil.

CITIES OF REFUGE.

(V M., 19.3): "Three cities thou shalt set apart in thy land . . . And these shall serve as an asylum for anyone slaying a man, viz: Whosoever will smite his next unintentionally . . . not having been previously his enemy . . . he shall flee unto (and find refuge in) one of these cities and shall live there. Lest the (nearest relative) blood-avenger, in his anger, would run after the (innocent) manslayer, reach and kill him, though he deserves not death . . . And when God will extend thy boundaries . . . thou shalt add three further cities to those three . . . that no innocent blood may be spilt in thy land" . . . "But if the man-slayer actually was an enemy of the killed one, when he waylaid him, rose upon and smote him who died, and he thereupon escape into one of these cities, then the City Elders shall send and take him away from thence, and hand him over to the blood-avenger, that he may die; have no pity on him, but clear away innocent blood from Israel, that it may be well with thee." Here is apparently a hoary, primitive provision, but full of excellent sense and benevolence in a scattered society where self-help is paramount.

Fluegel's "Humanity, Benevolence and Charity of the Pentateuch."

At all times and in most cases of apparent murder, it will not always be perfectly clear, whether the murder was premeditated and committed willfully and intentionally, or not. The first and greatest duty in primitive society, of the nearest kinsman and heir of a man, was to avenge his relative upon his treacherous slayer, even upon his entire tribe. This family vendetta appears to have been among the most venerable, uncontested and sacred duties of a blood-relation, well established among nearly all ancient tribes. Now, as in most of cases, the nice distinction between a wilful murderer, a negligent blunderer and an innocent, accidental manslayer is not always clear, charitable institutions and sacred places have been consecrated from times immemorial for unintentional murderers, to screen such, as all persecuted innocence, and secure peace and protection to all the weak and the vanquished. Soon the original object was lost of sight, and it was popularly assumed that the sacred place itself, the altar, the sanctuary with its grove and precincts, atone for and purify even crime, even actual murder etc. So criminals, exposed to the vengeance of the blood-avenger or of the state, took refuge in such places of *asylum*. All the leading ancient temples etc. had the privilege of such immunity. The criminals of every kind flocked to and haunted such places, whilst the pure and the innocent felt unsafe in these haunts. From Pagan places and altars in antique times, it passed to modern temples, churches, mosques, pagodas and marts. Such sacred asylums were yet the leading churches and mosques during the Middle Ages. They were infinitely more frequent in antiquity. To such environments, precarious justice and doubtful places of refuge our text alludes. Here the Lawgiver copes with the reigning prejudices, abuses and needs, the defective means of civil coercion and good government. The notion and office of the "blood-avenger" he allows to stand. But he tries to discriminate between the intentional and the non-intentional criminal deed; to protect the innocent and unconscious manslayer, and to punish the wilful and astute waylaying murderer. He ordains such places of refuge to be publicly set apart and good roads constructed to reach them; but expressly declares that not the

place, the altar¹ or the sanctuary protect, but solely the innocence of the suspected runaway man. If he be the enemy of the killed man, if he was waylaying him and smiting him, that conveys the strong presumption that he had wilfully and intentionally killed him, and though there be no witnesses, he shall be delivered to the blood-avenger and die by his hand. Here we find great wisdom and humanity displayed to do justice to all parties concerned, considering the primitive times and the environments of course, all that is old and defunct. Rabbinical jurisprudence altogether abolished the right of the hoary "blood-avenger." Only the courts put a man to death, upon two witnesses testifying to clear facts etc. Still, such asylums long continued to exist, not to screen against unreasoning vendetta or bold criminals and malefactors, but as an adequate punishment for unintentional manslaughter. Whosoever had the misfortune of causing the death of a neighbor, even unwittingly, was to go into exile, since some stain or guilt ever remain attached to his name and person. Here is justice and benevolence, both, at the bottom of the institution, but still standing upon the eternal rock of equality: "Life for life, eye for eye, foot for foot." (Id., 19, 21.) A head of adamant with a heart of sweet fragrance of benevolence had this, our Great Moses!

LAWS OF WAR.

(V M., 20.1): "When thou goest forth to war against thy enemy and seest (a great multitude of) horses, chariot and foot, in larger numbers than thou art, be not afraid, God is with thee . . . Then the priest shall step up and address the people thus: Hear, O Israel, you are ready for battle, be not dismayed, fear not and be not anxious, God goes with you to assist you. Then the leaders shall harangue the people thus: Whosoever has built a house and not inaugurated it, let him go home and occupy his house. Whosoever has planted a vineyard and not gathered its fruit, may return home and enjoy it. And whosoever is be-

¹II M. 21.14 מעם מזבחי תקחנו למוט. Even the Priest at the altar! Still the Rabbis mitigated the sense: מעל not מעם and half way saved the privilege of asylums.

trothed to a woman and has not wedded her, go home and wed, that he may not die in battle and another do it in his stead. And whosoever is afraid and discouraged, shall return home and not discourage his brethren." These are weighty verses for our consideration.

Here, again, we find the salient, uncommon and benevolent good sense of the Lawgiver, uniting sympathy with stern necessity, the possible good with the unavoidable hard facts of human affairs. Men will differ in opinion, in interests, in predilections, finally, and as, *vis ultima ratio*, will come to blows, appeal to arms and decide by force. What, then, may be done to mitigate such awful conditions? The Law can only, as much as possible, circumscribe and limit the extent of the evil: "If thou goest to war against thy enemy" . . . Reflect well; do you make war upon your enemy—indeed, your enemy? Can he not yet be your friend? Do you not attack him, perhaps, unjustly? Could not your differences be adjusted? Is not the right halfway between both of you? Could you not adjust it by fair compromise and arbitration? But you claim, you feel it, clear and plain, that the whole right is on your side and the whole wrong on his, and you appeal, in last resort, to the God of Arms. Then be strong in your conscience! Be sure the God of Arms, reason and justice is with you and will help you, even against numbers and the larger artillery! Still, you fear and tremble? Then here is hypocrisy and boastfulness, and you had better not fight. If your moral conscience be strong and sure that you are right, then you have the best chances to possess the greater might. The just party having also courage, will ever inspire respect and soon even terror to a ruffian enemy having but the fist. This psychology will ever be proven and corroborated by facts and history, even at the moment these lines are written.¹ Compare and collate history and psychology with our text, and you will find its suggestions all to the point, an excellent code of war and of international law, even today. Even that genius of war, Bonaparte, at last recognized the might of right over artillery.

¹The Russo-Japanese War, 1904, May.

Now, with all just national causes for war, it is still possible that single parties may have reason to deprecate and abhor war. Such individuals will be faint-hearted, and to compel them to what is repugnant to their innermost nature, is detrimental to their courageous comrades and the warring people. Their misgivings may well be contagious and affect the entire army. Hence comes the Lawgiver's prudence and his magnanimity not to insist upon such exceptional individuals to fight when they show fair cause to stay home and not to expose themselves uselessly to the chances of death. A man entirely engrossed by home, wife and estate can do little to gain victory and much to lose it. Let him, then, go home! But President Lincoln, on such an occasion, remarked: "Then all my soldiers will find excuse, go home and none be left to fight." Well, if a commander is aware of such conditions, then he had better disband and go to arbitration or to submit; unwilling soldiers ever count for the enemy. Just the recent successes of small Japan over the Russian colossus, can be best accounted for on such moral grounds. By the same reason will be explained the long victorious march of the French revolutionary armies, as well as the final overthrow of Napoleon I.

(V M., 20.10). The war-law continues: "If thou approachest a city to fight her, thou shalt first offer her peace. If she accepts peace and surrenders, then her people shall serve thee and be tributary to thee. But if she make war and God delivers her into thy hand, then her male population may be destroyed (as irreconcilable foes), but the women and children . . . shall be spared, they and all her wealth are thy booty of war." Comparing these verses with the war-rules in ancient times, and even in Mediæval ages, we find them humane and thoughtful, calculated to appease anger, conciliate men, make them submit to necessity and gradually bring about good-will, a better understanding, peace and amalgamation of the contending races and nationalities. It is a way to fuse gradually classes and tribes under the preponderance of the most capable ones. Of course that smacks of the Bismarckian cement, the "blood and iron policy."

But in primitive times it was advisable, feasible. That the Lawgiver made exception with the native seven tribes of Canaan, declaring: "Not to let live any soul of them," he motives that rigor by: "That they shall not inure thee to imitate their abominations, done for the sake of their gods, and thus sin against Iahv^h" . . . We are too far from those times to judge. Apparently the Lawgiver deprecated their amalgamation. The abundant examples of revolting licentiousness, coarse idolatry, cruelty, sacrificing of children, unnatural vices and gross unchastity (Midyan and Moab), the cruel priestcraft and ruse, necromancy, dangerous superstitions, treachery and faithlessness (Tyre, Carthage, Pygmalion¹), so often and bitterly alluded to in the Bible, prove that the rigors of the Lawgiver were well founded. His warnings were not heeded; the Israelites did amalgamate with the Canaanites, and hence came the national troubles, idolatry, secession, entangling alliances and destruction by Sargon, Salmanezar and Nebuchadnezzar.

MYSTERIOUS MURDER.

(V M., 21.1): "When a slain person be found in the field, and it is not known who slew it, then the Elders and judges shall go forth and measure the distances to the cities around the corpse found. Whereupon the Elders from the City nearest to it shall take a heifer as yet untoiled with and unyoked, and bring her down to the running stream (close by), and break down the neck of the heifer over the stream, and the priests and all the Elders of that nearest city shall wash their hands over the heifer . . . and shall loudly declare: Our hands did not shed this blood, nor have our eyes seen who did it. Grant pardon, O Iahv^h, to thy people, redeemed by thee, and do not lay innocent blood at the charge of Israel" . . . According to tradition the heifer was buried. The murderer, if later discovered, suffered death. The entire ceremony was deemed a kind of expiatory sacrifice, an atonement, for the crime against God and the human victim, and a solemn manifestation of grief at the loss of human life. The

¹See Virgil's Aeneas and Dido; her fierce passions and desperation; or Cleopatra's (of Egypt) amours, intrigues and tragic end.

symbolical ceremony meant strikingly to declare abhorrence of murder; it called public attention to the murderer, and solemnly averred the innocence of the Elders of the foul crime perpetrated. It further testifies to the primitiveness of the Law, by its very naivity and antique forms. The times of the astute Seleucidæ, Ptolomeans and the Roman emperors are too worldly for such naive appeals to the Deity. But even the epoch of the earlier Assyrian and Babylonian world-conquerors clashes with such pious invocations and supernatural attestations. At the same time it shows great solicitude for justice and for human life, fear and reverence of God, the horror of murder and violence, and the tender sympathy with the victim thereof, invoking Divine justice upon the perpetrator as yet undiscovered. Its purity, its faith and its symbolism, its means and its scope, the entire touching ceremony amidst such a concourse of the people, all proves, besides its very early date, the anxious benevolence, coupled with the love of justice of the Deuteronomist.¹

OTHER SYMPATHETIC VERSES.

To the same high sense for universal justice, solidarity and mutual services among fellow-citizens point the following verse: (V M., 22.): "When thou seest the ox or the sheep of thy brother going astray, do not look away, but bring them back to thy brother. And if he be not near by, hence unknown to thee, thou shalt take it into thy house, and when he inquires for it, thou shalt return it to him. . . . Nor canst thou see thy brother's ass or ox falling on the road and not care about them. No; thou shalt indeed help him to raise them (from the ground)." Here is inculcated good-will towards man and beast, commented upon elsewhere. Such laws, too, point to a very early time of composition, Israel being still generally agricultural.

(V M., 22.5): "A woman shall not dress as a man, nor a man as a woman. An abomination to God is he who does that."

¹See Maimonid. *Yad. H. Rozeah*, VI, IX and X. Such passages are among those many more which induce Professor A. H. Sayce to give to the Fifth Book of Moses a by far older age than that of Jeremiah, (in a recent letter to me).

Among the Phœnicians, Canaanites and Babylonians the licentious Astarta cult was extensively practiced. Temples and priests administered to it. Unchastity and libertinage were erected into holy, divine service. The despicable human tools thereof were declared as "*qadesh*" (holy) and "*qadesha*," males and females consecrated to the Venus service. Such men were dressed as women and such women dressed as men. To these the text applies: "Both are abominations to the Eternal." So, V M., 23: "There shall be no *qadesha* nor *qadesh* among the children of Israel, 'nor shall a harlot's hire be consecrated to the Temple'"—all these were Canaanite customs. On the extensive and thorough Mosaic legislation against lewdness and in behalf of chastity of men and women, of marriage and purity, we have treated at large in our "Mosaic Diet and Hygiene." In a hundred places the Pentateuch battles against the Canaanite foul concessions to the weakness of the sexual propensities, and this explains its rigid proscription of those races, natives of Palestine; it was simply a quarantine measure, to preserve the bodily and mental health of the young Hebraic nationality, then recently having occupied those regions.

"To make a balustrade or inclosure to the roof" (V M., 22.8), is likewise a healthy humanitarian public police measure, to prevent accidents, the Oriental often using his roof for fresh air.—Not to mix different kinds of grains in sowing (Id., 22.9), is an agricultural preventive police measure.—Not to till the ground with ox and ass together (Id., 22.10), has a double ground, economical and humanitarian, to prevent cruelty to animals and unnatural mixing of brutes.—Not to dress in wool and linen together, that probably aimed against the imitation of heathen priestly practices of that kind (Id., 22.11). Instead of that the Lawgiver recommends "fringes" at the four ends of the garment, the *Simla* or shawl. (See Religious Rites and views, Diet and Hygiene, on that theme.) Tradition treats largely of three sorts of such forbidden mixtures (*kelaim*). (III M., 19. 19), viz: Not to pair and mix up diverse kinds of brutes in breeding; of grain in sowing, and of materials in man's clothes, as wool and linen. The Mishna Kelaim, 26, forbids the pair-

ing and laboring together of diverse brutes. (Shulkan Aruch Ioreh Deah, 297.) Mishna Kelaim, I., 1, treats of mixtures in seeds. Ioreh Deah, mixtures of trees, vine and seed. Mixtures in dress-materials (Shaatez) is treated in M. Kelaim, 9, and Ioreh Deah, 298 etc. The etymology of Shaatez is uncertain; it appears to be synonymous with *Kelaim*, improper mixtures. Sacred Writ aims at preserving pure nature, and deprecates any adulteration and bastard products by unnatural processes in vogue among the corrupt Canaanites (also elsewhere, now) especially loathed by the Mosaic Lawgiver.

We discussed the following verses previously, and are here brief: (V M., 24.5): A newly married man is exempt from going to war, exempt from all public obligations; he shall stay at home for the first year and be happy with his new wife. This is openly a cumulative recommendation of fitness, benevolence and census.—(Id., 24. 6): Man shall not take to pledge the mill-stones (of the debtor), for that would be pawning life. "Thou shalt not take in pledge the raiment of a widow (Id., 17), even a rich one," say the Rabbis. All these are dictates of wisdom united to charity. The shawl, *Salma* or *Simla*, of a poor man was to be returned to him every evening (II M., 22.25). That is the exemption law of Mosaism, enlarged upon in the Talmud. These additional remarks are to complete the previous exegesis of these verses.

PLEDGE OF THE POOR.

Here is another sweet law of exemption in favor of the poor debtor, corroborating the above-mentioned recommendations of sparing distressed debtors and of mercy to take the place of justice: (V M., 24.10): "When thou lendest aught to thy brother, do not enter his house to take his pledge, but stay outside, and he, thy debtor, shall bring out to thee his pledge. And if he be poor, do not pass the night with his pledge, but, indeed, return it to him at sunset, that he may sleep with its *Simla* (shawl) and bless thee, and this will be accounted to thee as a benevolent act before thy God." This is one of those fine passages of noble humanity and philanthropy which prove the true divinity of the

Bible, its inspiration from the highest Source of goodness and wisdom, and which has made it the Book of Mankind, of all races and climes. It is not a collection of scattered treatises hailing from diverse places, centuries and hands, as deemed by some "Higher Critics" and gratuitously assented to by the ignorant, marvel-loving crowd of imitators.

THE WORKINGMAN'S HIRE.

(V M., 24.14): "Thou shalt not unjustly withhold the wages of the poor, be it of thy brother or of the stranger in thy land. On the very same day give him his wages, for he is poor and looks up to it. Let him not cry to God, and it will be accounted to thee a sin."—(V M., 25.18): "Thou shalt not bend in judgment the right of the stranger and of the orphan. Remember, thou hast been a slave in Egypt and God has rescued thee."—(Id., 24.19): "When thou cuttest down the harvest of thy field and forgettest a sheaf, do not go back and fetch it, but leave it to the (poor) stranger, the orphan and the widow; the same do when gathering in the produce of thy olive trees and thy vineyard . . . that God may bless thee in all thy handiwork."

(V M., 25.2): "When the judge will find (corporal) punishment due to the wicked party, according to his guilt he shall have him chastised (but) in his own presence, and not over forty stripes, that thy brother shall not be (lowered) despised in thine eyes." The Codes of Hammurabi, that of the XII Tables, of Justinian, and even modern Codes rarely have that noble trait of clemency: A fellow-man is, alone here, even when guilty, ever a brother (V M., 25.1).—"Do not muzzle an ox when he threshes (thy corn)" (Id., 4), is another mark of sympathy even for the working brute, and a token of economical wisdom over and above; what is just is also prudent. As precious stones, so these verses sparkle in different directions, and therefore we had to treat them repeatedly to show their different bearings and many-sidedness.

We have previously contemplated the Levirate's Law, with its manifold ethical, agrarian, tribal and spiritual aspects. We shall here add but one feature. Custom ordained and the Law

conformed to it, that the widow of a childless dead brother shall be married by the surviving brother, and that their first-born son assume and continue the name of the childless man dead. If he refuses to marry her, then (V M., 25.9) she, that brother's widow, shall appear with him before the Elders, take off the shoe from his foot, then spit out in his presence and say: "Thus shall be done to the man who refuses to build the house of his brother." That symbolism of olden times, hoary and old as it is, is telling. In one and the same breath the widow shows her readiness to perform her wifely duties, as once to the dead, so now to his living brother, and the contempt the latter ostensibly deserves in refusing to do his duty to the dead brother and to his widow, from mere worldly considerations. The ceremony is striking, genuine, hoary and touching.

(V M., 26.1): "When thou wilt enter the land which God has entailed upon thee as thy inheritance, thou shalt take of the firstlings of all the fruit of the soil and go on pilgrimage to the place which God will select to rest his name thereon; then repair to the priest and hand it him who shall place it before the altar of God. Then shalt thou begin and say in presence of God: A wandering Aramian was my sire, and he went down to Egypt with but a few persons and became there a very numerous people. But the Egyptians ill-treated us and oppressed us and imposed upon us hard labors. And God heard our cry and saw our tribulations and brought us forth from Egypt with a mighty hand . . . and led us to this land, flowing with milk and honey. And here I have brought the firstlings of the fruit of the soil. And leaving that there, thou shalt bow down before God and rejoice at those bounties, thou, the Levite and the stranger" . . . What a noble object lesson, combined with modesty, gratitude, piety and solidarity!

THE MOSAIC SYLLABUS.

We have called this chapter "Gleanings" of Mosaic humanity and charity, for, indeed, the major themes of the Fifth Book of Moses we have previously discussed and enlarged upon from nearly all standpoints. Even the passages noticed here have

accessorily been treated above in conjunction with other subjects. These minor themes we have condensed and discussed here from the purely humanitarian, Biblical point of view, and hence their brevity and occasional repetition. And now comes the grand climax (V M., 27.1): "Moses and the Elders bade the people: Observe this commandment which I ordain you to-day. When you will pass the Jordan, ye shall set up large stones and write distinctly on them all the words of this Thora. . . . Mark and listen, O Israel, this day thou, indeed, hast become the people of *Ihvh*, thy God. Harken then to the voice of the God Eternal and practice his commandments . . . And Moses ordained (furthermore): These (tribes) shall stand up upon the Mount Garisim to bless the people, and these others shall stand upon the Mount Aibal to curse. Whilst the Levites shall begin with a loud voice and proclaim: Cursed be the man who maketh, in secret, a graven or molten image, an abomination to the Lord! And all the people shall say, Amen! Cursed be he who despises his father and his mother. And all shall say, Amen! Cursed be he who removeth the landmark of his neighbor. And all shall say, Amen! Cursed be he who misleads the blind! And all shall say, Amen! Cursed be he who bendeth the right of the stranger, the orphan and the widow. And all shall say, Amen! Cursed be he who committeth incest and unchastity. And all shall say, Amen! Cursed be he who smiteth (slays) his neighbor in secret. And all shall say, Amen! Cursed be he who taketh a bribe to harm the life of the innocent. And all the people shall say, Amen!" This grand and solemn passage is the complement and counterpart of the Decalogue. It is the negative side of the positive organic law of hoary Moses. Both complete each other, both are realistic, popular, going straight to the point, appealing to our best instincts and our common sense. Each insists upon the normal moral law born with us, underlying the best nature of man, the individual, the family, the State, the people. Each is part of the leading, fundamental laws of human, civilized, moral society. Hence this solemnity and this grand occasion. A grand occasion indeed, as that of the Sinai Revelation. There is God, Moses and Israel. Here, too, the

entire people is assembled on the two twin-hills, and the Levites grouped in the midst. There Horeb and Sinai; here Garisim and Aibal. There Moses, here the Levites, proclaim the universal human law; not sectarian, not ceremonious, not ritualistic, but the innate, purely intellectual, universal and moral law; deprecating and cursing especially secret crimes, those great, destructive, subtle, most dangerous social crimes, not detectable by our eyes, senses or witnesses; secret, occult, venomous crimes against the peace and the welfare of society, family and individual; crimes the more dangerous, since there are no witnesses; they are mysterious and hard of proof. Here the Decalogue is supplemented by its counterpart. This is the Syllabus of the Mosaic Church. The Decalogue blesses the performers of the Law; the Syllabus curses the law-breakers. Both are the highest expressions and norms of the Biblical society, its organic law, positive and negative. Further on we shall contrast this Syllabus with that of another church and recognize why Mosaism is the creed of man, while other creeds are but of sects.

WITCHCRAFT.

(II M., 22.17): "A witch thou shalt not let live." Before closing our chapter we have to comment yet on this verse. The import of witchcraft in the ancient world and of this short and abrupt sentence in the Biblical laws, has not been sufficiently considered. It is apparently a remnant of prehistoric times. We moderns, having certainly outlived many like remnants of olden views, now termed superstitions, wonder how such absurdities could ever have found credence with rational people, and why lawgivers took notice of them and enacted regulations to keep these practices in bounds,¹ whilst other legislators deemed them all one source of gross mischief and danger to society, and prohibited them indiscriminately under all circumstances and by the severest punishments, even death. So the Mosaic Law, after repeatedly inveighing against such, elsewhere, as heathen abominations, tersely states here (II M.,

¹See Stela of Hammurabi, first paragraph, further on.

22.17): "Thou shalt not let live a witch." Other Codes and nations legally constituted them as a learned profession, with hedges and prohibitions and licenses, as we do our healers, declaring some doctors and again others quacks; while we keep up medical schools and professors for instructing physicians and pharmacists and handing them diplomas which endorse them as breveted healers. Now in our times necromancy, enchantments, witchcraft, the black arts, supernatural influences, find little faith, generally, and none with the educated. We deem it even puerile and cruel to impose legal penalties upon the practice of such tricks, thinking it unworthy of any public notice. So that when we read that, in comparatively modern times in the United Colonies of North America, witchcraft was often punished with banishment, fines, public whippings and even death, we think that absurd, a remnant of cruel superstition, and the so-called witches and wizards we deem innocent victims. We shall now adduce irrefutable evidence that we moderns misunderstand that matter, and that in centuries gone by, witchcraft was not simply an innocent superstition, a mere child's scare, an idle ghost tale, but that it was a criminal profession, a most dangerous craft, practiced by sharpers upon the ignorant, disquieting society, allied to crime, devising wicked perpetrations, and endangering hosts of victims, casting at all times a veil of gloom and superstitious fears over a large part of humanity, by inventing and fostering supernatural agencies and terrors, vain shadows of goblins and evil spirits, accompanied by really dangerous remedies; conferring upon the designing enchanter power over the masses and inducing awe and fear of them, thus exploiting the ignorant in purse and influence.

Let us first quote the Rabbinical and historical view on our study: "A witch thou shalt not let live."

Maimonides in his Guide, III., 37, arranges all the commandments of the Thora under fourteen headings. There he says: "To the second category belong all the enactments which we have discussed in our Treatise on Idolatry. They all aim to enfranchise men from the superstitions of idolatry and kindred

Fluegel's "Humanity, Benevolence and Charity of the Pentateuch."

abominable notions, as the different kinds of witchcraft, sooth-saying, necromancy etc.¹ When you read the books of the Sæbæans and Chaldæans, the Egyptians and the Kanaanites, you will find that they believed to perform marvelous, mystic deeds in behalf of individuals or of society. Whilst really such pretenses had no analogy and verification in nature, in experience or in correct thinking. So, for instance, they used to collect magic herbs at a certain time and at a certain place, or take parts of certain things, certain quantities of such objects, herb or living being, observing the time . . . whilst jumping, knocking, shouting or laughing, or lying down on their backs, or burning or slowly smoking something; muttering spells, intelligible or not; observing the phases of the sun or moon; taking something from the horn, the hair, the blood of an animal . . . and performing therewith charms . . . Most of such crafts were performed by womankind . . . In order to elicit rain, ten maidens, dressed in red, performed dances . . . moving forwards and backwards whilst beckoning to the sun. This would make the water come forth . . . Similar incantations in curious female postures would operate against hailstorms. There were many more such absurdities and mad gestures, and these were ever executed by females, ever looking to the stars. Since they believed that such herbs belonged to a special heavenly body, so they attributed every dumb object and every living being to some certain star . . . They also believed that all such mystic performances are the mode of worship of such luminaries, who are pleased with that service, the spell or the smoke offered them, and that, in exchange, they would obtain their desired object. And after this, what becomes clear by reading their mystic books in our hands and of which we have spoken above, listen to our following comments." Maimonides continues:

"Since the object of Scripture and the pivot upon which it turns is the destruction of idolatry, the eradication of the belief that the stars can either do good or harm in the domain of human affairs, which belief caused man to worship them, it be-

מכשפה לא תחיה—מעונן, מנחש, מכשה, חובר חבר שואל אובי

came naturally necessary that the wizard should die, he being *ipso facto*, and undoubtedly an idolator . . . Now we must remember that, mostly, witchcraft was practiced by females, therefore we read: 'A witch thou shalt not let live' . . . Again, since men, usually and naturally, have pity to put women to death, therefore accentuates the Sacred Writ, especially, concerning idolatry. '*Man and Woman*,' not mentioned anywhere else; and this on account of the natural tenderness of man for womankind. So claimed the wizards that they have the power to drive away the ferocious beasts and snakes from country and city; or that, by their witchcraft, they can protect the fruits of the fields from all kinds of damgaes, as from hailstorms etc., and the vineyards from insects obnoxious to them . . . or prevent the early falling off of the green leaves or the tender fruit. Therefore Scripture ever connects idolatry with witchcraft, notoriously going together and claiming to discard harm. So the Sacred Writ affirms that just by such practices, such ills will unfailingly take place: 'I shall abet against you the wild animals, the tooth of the beast and the venom of the vermin. They will plant vines and not drink the wine thereof' . . . That means that, however much the polytheists pretended, in order to strengthen their cults and make people believe that they have power to prevent damage and do man useful services, all that is a lie and fraud; that, on the contrary, just such ills will befall and visit them on account of their abominable and superstitious practices. Again we read: 'In their customs you shall not continue . . . such are the ways of the Amonites.' They are branches of idolatry, not warrant-ed by natural analogy and experience. They unite witchcraft with star-worship, and both are dangerous superstitions."

In further illustration of our theme, we adduce the following from Horace, a master mind of ancient Rome. (Horace, *Epo-don Liber*, *Carmen V.*, in *Canidiam*: "Oh, by all the gods that govern this earth and mankind, wherefore this tumult? Why these savage looks that you all throw at me? O thou, I conjure thee by thy children, if thou ever hadst any . . . by this vain purple, by Jupiter, whom thou outragest . . . why dost thou

look at me with the eyes of a stepmother or of a wild beast when wounded?"

The text¹ suggests that the witch used to simulate pregnancy, then claim to get children, and then steal such, particularly from the Patrician classes, murder them in an atrocious manner and use their intestines and marrow for love potions, similar medicines and filters. After the stolen child had breathed out these complaints in a trembling voice, it was rudely stripped of its superb clothes. The aspect of that graceful, denuded body would have mollified the most hard-hearted Thracian . . . Canidia, the sorceress, her hair loosened and intertwined with vipers, orders her assistant to burn in a magical fire a wild fig tree uprooted from a grave-hill, funeral cypresses, feathers and eggs of an owl stained with the blood of a frog, herbs grown on the Yolchos and Ibery Mounts, fertile in poison, and bones torn from the gullet of a hungry she-dog.

"In the meantime, Sagana, the second witch, her dress tucked up and her hair standing up as the bristles of a hedge-hog, sprinkles with water of the Averne the entire house. Veia, a third witch whom no remorse ever troubled, hollows the earth with a hoe, panting with the effort. There the child is buried to the chin, as the swimmer whose head is raised above the water. It is slowly to expire in the sight of the dishes set before it, but not allowed to eat, and two or three times renewed during the course of an everlasting day. And when the boy's eyes, ever fixed upon the food set before him, but ever denied him, will at last be extinguished, his marrow and liver, thoroughly dried, will make up a love-philtre. Folia of Arinium was present, so the neighbors claimed; Folia, that monster of debauchery, she whose

¹Horace: In Canidiam, Carmen V., Epodon Liber:—

Quid iste fert tumultus? Aut quid omnium

Vultus in unum me truces?

Per liberos te, si vocata partubus

Lucina veris affuit,

Per hoc inane purpuræ decus precor,

Per improbatum hæc Jovem,

Quid ut noverca me intueris aut uti

Petita ferro bellua?

magic power detaches the moon and the stars from the sky." Folia was the most infamous witch of Horace's time, as the Greek Medea. All this shows the charlatanism, the cruelty and the pretenses of the witches.

"Then the cruel Canidia, gnawing with her greenish teeth her nails, which the knife has never pared, begins her spells . . . What does she say, and what not? 'Faithful witnesses of my works, O night and thou moon, ye who cause silence to reign over my sacred mysteries, come! come ye now! Turn against the residence of our enemy, your powerful ire, and let the night dogs bark and howl at that old debauchee . . . But what do I see? Have those poisons lost their power over him? Those poisons which avenged Medea, when she saw her superb rival enveloped, on the very day of her nuptials, in the devouring flames, hid in the robe which had been presented to her? O Varus, what big tears wilt thou shed! Yea, unknown philtres will cause thee to come back to me and all the enchantments of the Marsi will not render thee thy reason' " . . .

The child, starved to death and despairing of mollifying these furies, charges them with its dying imprecations: "I see it well, I cannot disarm your hands of these poisons. Well, may my malediction pursue you! The effect of my curses shall no sacrifice turn away! After you have plucked out my life I shall be a night-fury, shall pursue you and lacerate your face with these sharp nails. I shall sit and press your hard-breathing breast and frighten away your slumbers. O ye impure witches! the mob will chase you from street to street, pelting you with stones. The wolves and the birds of prey will tear your limbs, deprived of burial, and my parents, alas! sad to outlive me, shall rejoice at this sight" . . .

Frequently Horace, as other writers of old, mentions this epidemic of olden times, witchcraft, the horrors it brought upon individuals, families and the community, the superstitious and preposterous mystifications it produced and fostered in society. Such it was in Roman and Greek countries. Such it is alluded to in the laws of Hammurabi of Babylonia, and Canaan then was ruled by that same code. It was the black veil of an-

cient society, the child of the many gods and demons of polytheism. Hence the Pentateuch states: "A witch thou shalt not allow to live."

In the same book, *Epodon Liber*, *Carmen XV.*, ad *Canidiam*, Horace treats of the same subject-matter, witchcraft, in his way, half serious and half facetious. It is curious to see what an amount of influence mischievous mysticism, diabolic supernaturalism, exercised over the human mind of those times.¹ The wizard and the witch were a revered and feared priesthood, and incantation was a cult, having its gods, shrines, sacrifices, spells and even prayers! The ideas of right and wrong were nearly effaced, and for a gift, a hymn, a sacrifice, the enchanters could obtain anything they desired. Their art was deemed the most powerful, so as to command the heavenly bodies and counteract all nature's forces. *Canidia* bombastically pretends (*Ibid.*, 74): "The earth will stand back before my pride. I can animate wax figures, tear away the moon from the heavens, revive the ashes of the dead and prepare love philtres! Shall I be reduced to deplore the impotence of my art towards thee alone?" This mystic power for bad seems to have had its root and *raison d'être* in the Magian doctrine of *Ahriman*, the God of Evil, Darkness and Impurity, as the counterpart of the Supreme God of Good, Light and Purity, *Ahura Mazda*. It represented the two reverse sides of life and of the universe; hence it was deemed possible even by the wise. It explained the phenomenon: Whence comes evil? The answer was: *Ahriman* is its author and *Canidia* the tool. The votaries of the Bible, believing only in one God, had no *Ahriman* opposing *Ahura*, no wicked divine power; hence was the wizard and witch powerless, shorn of all halo, a common mischief-maker, and was quickly dispatched as a mere thief, the most dangerous member of society: "The enchanter let not live!" That was the only humanitarian outlet recommended by law.

¹(*Titl. Livl. lber XXI. 62.*) "During that war-winter many wonderful things occurred at and about Rome, which usually happens in excited times, and the popular minds turned towards religion. A six months' old infant shouted on the market place: 'Yo, triumph!' An ox ascended voluntarily to the third story and then, terrified, fell down (alluding to Hanni-

Maimonides (Yad, Mada, Idolatry) discusses all the different sorts of witchcraft as a branch of idol worship, priestcraft and ancient, vanquished superstitions, their many denominations, charms, spells and incantations. He concludes that chapter, XI., 16, with these words: "All these modes of witchcraft are lies and deceit. They were the usual tricks to deceive the ignorant old-time masses. It is unbecoming to intelligent Israelites to follow such stupidities, or ever to think they are of any avail. And so it is written: 'There is no incantation in Jacob or charms against Israel' . . . 'Those barbarous (Canaanite) nations whom thou supplanted did listen to wizards and enchanters; do not imitate the same' . . . Whosoever believes in such and imagines that they are useful and wise, only that the Thora has forbidden them, belongs to the fools and the ignorant, is among the uneducated women and children. Whilst wise and right-thinking persons know by sound proofs that all that the Thora has forbidden is far from being wise, but is all error and inanity, and that only the ignorant follow them, neglecting all logical and correct thinking for their sake. Our Law, warning against all such follies, says: 'Be thou whole-souled with the Eternal thy God.' " Maimonides, namely, is well aware of the strong bias of thoughtless Jewish people for such superstitions, so he concludes saliently and forcibly: "Do not assume that anything rational is forbidden by our Law. No! Rest assured that anything good and wise is allowable, and that incantation and charms are prohibited for the simple reason that they are totally useless and often dangerous to the peace and well-being of the deceived masses."

bal in Italy). A crow flew down and settled on the couch of the goddess Iuno . . . It rained with stones . . . A wolf snatched the sword from a soldier on guard and carried it off . . . The Decemviri (prophets) consulted the Sacred Books. Nine days of penitence were proclaimed, sacrifices were offered in all the temples of the gods. Forty pounds of gold was carried to the temple of Iuno, a statue to her given, a couch to Caere, etc. All the gods, temples and priesthoods were endowed—so ordained by the Sacred Books! This quieted the people. *Hæc procurata vota que ex libris Sibyllinis magna ex parte levaverant religione animos.*" In the times of Horace and Justinian it was not better.

CHAPTER VII.

Laws of Hammurabi, King of Babylon about 2250 B. C.

Translated into English by the writer, from the German of Dr. Hugo Winkler, Leipzig, 1902, and corrected from the German-Hebrew of Professor D. Muller, in the *Jahr-Bericht* of Isr. Theological Lehranstalt of Rector Dr. A. M. Schwarz, Vienna.

It is the oldest complete legal code extant, engraved on a Diorit-block in about 49 columns, of which 5 columns have later been erased. The Stela, or style, measures in height 2.25 metres, its circumference is 1.65 meters, and below it has 1.90 metres. It contains a cunieforn inscription on a Stela formerly erected in the Sun-Temple at Sippar, North Babylonia, and discovered by the French exploration under J. de Morgan in the beginning of 1902, on the Akropolis Hill, at Susa, Persia. It contains 282 sections, those between 65-100 having been erased by some later king. It forms a fairly complete Code of laws, civil, criminal, agrarian, commercial and industrial, of a settled community, with a powerful, dominant, conquering class and a subject-people, with marked and strong discriminations between both these parties. It deals with all practical cases occurring in a real, live society and State of those times and environments; with witchcraft, ordeal by water, slavery, crimes entailing maiming, ordeals or divine judgments by fire and water, bribed judges, theft, receiving stolen goods, housebreaking, highway robbery, misappropriations, incest, judiciary procedure, proof by witnesses, oath and ordeals, administration, tax-collecting, partnership, principal and interest.¹ The *Stela* begins with a lengthy, oratorical introduction, and closes with a no less flowery peroration. Polytheism and Kinghood are the dominant social factors.

As in our other studies on the great legislative Codes, so we offer here to the reader a sketch of the leading paragraphs of the Babylonian Code of 2250 B. C. ago, as an interesting, antique, legislative document, but particularly and saliently with the fol-

¹The theme has been treated by H. Winkler, Sam Oetli, C. H. W. Johns, Joh Jeremias, R. Daruti, Carl Stoob, G. Cohn, D. H. Muller and others.

lowing object in view, viz: It has been claimed by many, and most notoriously by a Berlin Professor¹ who lectured on it before German authorities and gained a remarkable notoriety by it, that the Mosaic Code, its God-idea, its monotheism, its Decalogue, its Sabbath and its laws generally, are borrowed and copied from Babylonian sources, and especially from the Hammurabi Code . . . The reader, finding here verbatim an extract of its principal sections and enactments, will have the best opportunity to judge for himself. We hope he will find out that the claims of the Berlin Professor etc. are wholly and entirely, yea ridiculously, unfounded and unwarranted, as we shall show and enlarge upon it further on at the close of this epitome.

INSCRIPTION ON THE STELA OF HAMMURABI.

"When Ann and Bel and Marduk, son of Ea, the God of Justice, gave over to me mankind as his domain, and established Babylon as an eternal Kingdom, then they called me, Hammurabi, the sublime Prince, to make justice prevail in the land, to annihilate the wicked, that the strong shall not harm the weak, to advance, as Shamash, Ann and Bel, the well-being of men; they called me by my name, Hammurabi, the Prince" . . . (enumerating his various eminent labors in the service of the gods, the temples, the worship, as also his conquests in all the four directions of the world etc.) "the royal scion of eternity, the mighty King, the Son of Babylon, irradiating light on the land of Sumer and Akkad, whom obey all the four parts of the world . . . When Marduk gave me the mission to govern men, to secure justice and protection, to the land, then I have enacted the following laws for the welfare of my subjects:

(Sec. 1): "If a person charges another with having committed murder by witchcraft, and cannot prove the charge, he shall be killed." The Pentateuch and the Talmud admit of counter-witnesses, *alibi*, *Hazuma*, in matters of real fact, not in such idle cases, not provable either way. It is misleading and harsh. Hammurabi devotes much attention to witchcraft; Moses, three words: "A witch let not live." The leading characteristics

¹In "Babel and Bible," Leipzig, 1902.

of the Babylonian legislation are harshness and terror, befitting a conquering and subjugating society.

(2): "If anyone brings charges against another and that one (accepting the challenge for an ordeal) springs into the river, if the river takes and holds (drowns) him, then the accuser shall take possession of the latter one's house. But if the river proves him to be innocent (by not drowning him), then the accuser shall be killed, and the accuser's house becomes the possession of the innocently accused person." Apparently incantations, banning and ordalials, or miraculous judgment, were very frequent in those times and that country. The Pentateuch treats witchcraft rather abruptly, as discussed above.

(3): "If anyone in litigation raises a charge of malice against another person, and cannot prove his charge, then, if that is a case of life and death, he shall be killed." More definite is the Mosaic enactment (V M., 19.19), and the Rabbinical expoundings render that lucid and just. In the Stela it is harsh and indefinite, giving room to chicanery.

(4): "If he charges him with (bribery) acceptance of grain or money, then he shall bear the costs resulting from the litigation."

(5): "When a judge passes judgment, giving his verdict in writing, and afterwards annuls his own judgment and verdict, then he shall pay the damages ensuing therefrom, twelve fold. He shall, besides, be publicly dismissed from his judgeship and nevermore be allowed to reoccupy it."

(6): "If anyone has committed theft upon God's Temple or the royal palace, he shall be killed. Also he that received and hid those stolen goods." Apparently, the reigning gods and princes were foreign conquerors, hated by the native laity and priests, hence this aristocratic severity; Mosaism never punishes theft with death.

(7): "If anyone accepts silver, gold, slaves, cattle etc. from anyone's son or slave, without legal concurrence of Elders and

¹Treated above; a remnant of ancient belief, not provable, and not admitting of witnesses, either way.

contract, buying it or keeping it, he is considered a thief and is to be killed as such." Again death for theft! This, too, proves the foreign origin of the lawgiver, suspicious of the native populations. Mark, also, the son is at par with the slave, proving slavery and polygamy as the social features.

(8): "If anyone steals cattle or sheep belonging to the gods or the king, he shall pay 30 times its value; if it belongs to a poor man,¹ 10 times. If the thief has nothing to pay with, he shall be killed." Here is the same cruel, aristocratic principle. For theft the Pentateuch ordains, five, four and two fold payment; if poor, the thief is to be sold to work for not over six years, never attaining the thief's life, liberty, limb and family; he ever remains a free man and brother. How much superior to the above! All explains the democratic, Mosaic society and the aristocratic, conquering one of Hammurabi.

(16): "If anyone harbors in his house a fugitive slave, and does not deliver him or her on the public announcement of the *major domus*, he shall die." The Pentateuch teaches the very contrary: "Thou shalt not deliver to his master the runaway slave, who takes refuge with thee. He shall stay with thee (V M., 23.16) wherever he pleases." The Babylonian Code was a Code against the native Babylonians, legalizing the master's usurpations and securing them by law.

(17): "If anyone meets and takes hold of such a fugitive slave, and brings him back to his owner, that one shall pay him 2 sekel (for his trouble)." All this points to a legislating conqueror trying to corroborate might by law.

(18): "If the slave does not reveal the name of his master, his captor shall bring him to the government officer, who shall inquire for and return him to his master." Of course, the government was of the reigning party.

(19): "If (the captor) hides the slave in his house . . . he (the captor) shall be killed." For he was a native, of course, and intended to screen the fugitive fellow-native, hence this bloody rigor against him. We saw how Mosaism bids the very contrary: "Let him stay with thee wherever he pleases."

¹"Poor man" apparently means an enfranchised one, an emancipated slave.

(21): "If anyone digs a hole into a house and breaks in, they shall kill him at once and bury him in that very hole." II M., 22.1-2, ordains: The housebreaking burglar shall pay, or be sold for the amount of the theft. If killed in daytime,¹ that is murder, unless that be in self-defense, expounds the Talmud. Here the Lawgiver aims at securing both the proprietor's goods and the thief's life, for he, too, is a citizen. The Babylonian Code hates alike the thief and the native, both identified in this case. The Talmud here deviates from the plain, salient sense of the Hebraic text, coming nearer the Babylonian enactment, apparently mediating between the two codes. "If the sun shines upon him," the Rabbis interpret: "If it be clear as sunlight that the thief would not commit murder." Such cases are never so clear. See above on this.

(22): "If anyone commits robbery and is caught thereat, he shall be killed." The Mosaic Code has him pay the principal and a fine; his life is not attainted.

(23): "If the robber is not caught, then the robbed one shall bring his claim before the gods and the Town-Elders, swear before them, and the community shall compensate him fully for the loss." The community is made responsible to the dominating class. Mosaism knows no such artificial solidarity. No doubt, *the community* meant the subjugated people.

(25): "When fire breaks out in a house, and, under the claim of putting it out, someone steals the property thereof, he shall be thrown into the fire." Here, as elsewhere, Hammurabi gives life for property; never allowed in the Pentateuch. This is the eternal antagonism between a homogeneous, free community, and one of classes and masses.

(30): "If a military or civil officer, instead of cultivating and utilizing, neglects his field, garden and house, and another one occupies and utilizes such for three consecutive years . . . they belong to the latter one who took possession of and cultivated them; he shall continue so."

¹"Damim lo," that is the real sense of the verse. The Talmud takes it figuratively.

Here is a bold limitation law of only three years, exceedingly harsh! Apparently, Hammurabi sacrificed the proprietor to the property, the inhabitants to the land. His aim was industry, not the people; he was a Canaanite conqueror, and desired to stimulate wealth and work, not the native race, ostensibly inimical to him. Apparently the native remained on the ground and soil as menials and serfs, as the European peasant of the Middle Ages. The Roman Law set a hundred years as limitation. Whilst the Mosaic Law had none; it never allowed the alienation of the family acre; on the contrary, the cycles of Release and Jubilee forcibly restored the sold ground and farm to the original owner. It allowed no limitation or prescription whatever, however long occupied by the landgrabber. That Saxon farmer who remarked that: "One hundred years of injustice proves not one year of justice," took his cue from Moses and Lasalle, not from Hammurabi's Code, which ejected an exiled cultivator to favor a partisan follower, of the dominant caste.

(32): "When an officer, a magistrate of the army, who on the road of the king (in war) was taken captive, then ransomed by a slave-merchant and brought back to his place, if he has there the means to redeem himself, he shall do so; if not, he shall be redeemed by the Temple of his place; if the Temple has not the means, the (royal) Court shall ransom him. His field, garden and house shall not be used to redeem him." The lawgiver throws the burden of his ransom upon the public, and secures to him the possession of his family acre. Here again we find the privileges of the invading army sanctioned by law. This paragraph has no parallel in the Mosaic Code, but it has in the Rabbinical Law (see Maimonides, Tract. Slavery), where the duty of redeeming captives is recommended as the highest charity and is incumbent upon the community at large, above all other charitable duties; but no discrimination is made between soldier and civilian. The preference of first ransom is granted to the scholar, not the military man; that is characteristic.

(37): "If anyone buys the field, garden and house of an officer, magistrate or rent-paying farmer, his contract of pur-

Fluegel's "Humanity, Benevolence and Charity of the Pentateuch."

chase is to be annulled and he loses his money; field, garden and house go back to their (original) owner." Here is an important provision, akin to the Mosaic inalienability and perpetuity of the inherited acre, to stay with the family. But it is more than probable that it refers only to feudal lands granted by the king to his lords, vassals, soldiers and officers, for military services, not to the nation or people of the subjected land. The very form and phrasing of the law shows that it is in favor of the dominant class, not the people. The Mosaic enactment is democratic, universal, in behalf of the entire people, the stranger included.

A large number of laws treat of business transactions, partnerships, goods, principal and profit. Interest, usury or profit on money, grain or goods lent, are very frequently mentioned and allowed, without any limit, by that Babylonian Code, in flagrant opposition to the Mosaic Law, which forbids it towards poor people, indigenous Jews and non-Jews. The Babylonians were industrial nations, and the law had no other consideration but that; it aimed at encouraging business, not fostering benevolence.

(102): "A capitalist advancing to a man money without interest for speculation in business, and the middleman losing all, or part of it, must repay the principal to the capitalist" (without interest, who is considered as a partner in the business?).

(103): "If on his journey an enemy robs him of all or part of his goods, he shall swear by the gods (of his innocence), and he is not responsible therefor."

(104): "When a merchant gives the middleman grain, wool etc. to sell on speculation, a judicial act must be made about it, and he shall keep a receipt for any moneys he may pay to the merchant." All transactions must be done in writing—proof that the writing art was generally understood and practiced in common life.

(105): "If he neglects to take a receipt for his disbursements, he cannot claim such to his credit." The Rabbinical dictum is not so plain, the business spirit not being there much developed. Still, the general rule was: Whosoever makes a claim against his neighbor must bring proof for it.

(106): "When contestations about such moneys arise, the merchant shall prove his claim before the gods, the witnesses and Elders, and the middleman must make good the claim threefold its amount." The Rabbis put the burden of the proof ever on the claimant, as remarked, but never ask a threefold payment in a simple contest.

(107): "If the capitalist is convicted of fraudulent dealings towards the middleman, he must compensate him six fold." All that shows the rigid and purely industrial character of that Code, without any bias for mercy or even equity.

(109): "A female inn-keeper retailing wine and harboring conspirators in her establishment and not delivering them unto the government, shall be put to death." Here we see a foreign master, anxious for his own security, on the lookout for rebels.

(110): "If a consecrated woman, nun or vestal opens a wine-house, or if she merely visits a drinking place with intent to liquor, she shall be burnt." This severity points to a great moral depravity, just by its severity.

(112): "Any movable goods entrusted to a party for safe-keeping or for delivery to some place and person, fraudulently detained by that party, if so proven, shall be restituted five fold." The Pentateuch punishes the thief with two, four and five fold restitution, according to the import of the stolen goods to the owner.

(115): "If an insolvent man is imprisoned for debt in the creditor's house, and dies a natural death there, there is no room for compensation." (Neither the sum involved nor the dead person shall be compensated for?) Mosaism allows no imprisonment for debt; its axiom is: Goods for goods, limb for limb, life for life; not liberty for goods.

(116): "When that imprisoned man dies from blows or other bad treatment there, and he be the son of a freeborn man, then, if proved, the son of the maltreator shall be killed; and if the dead man is a slave, one-third of a mine in silver shall be paid. Any other creditor's outlay on him is lost." That provision becomes logical on considering the Oriental view that, not only the debtor, personally, could be imprisoned, but also

any of his family and dependents. Even so could delinquency be avenged upon the family of the wrong-doer. Mosaism accentuates the contrary: "The parents shall not die for the children, nor the children for the parents; everyone shall die for his own guilt" . . . Here is an immense advance over Babylonia.

(117): "When an insolvent debtor gives away to the creditor his wife, son or daughter, for money due, or as a pledge for debt, they shall stay three years and work in that condition, and then go free." The Pentateuch never allowed any such personal sale or alienation. A minor girl could be sold by her *poor* father, on the tacit condition to marry her master, or his son, or go soon free (II M., 21.4) (at puberty?) Mosaism deprecating free love under any shape, just as total enslavement.

(120): "Goods entrusted for safe-keeping to a man, and contention arising thereupon about their partial damage or total theft, then the owner of those goods shall prove his claim before the judge and be paid by the deposittee (or bailee)."

(122): "If anyone delivers for safe-keeping goods to his fellow-man, any such deposit must be made before witnesses, and by written document, and the terms are to be stipulated."

(123): "Without witnesses and judicial document concerning the terms of safe-keeping, there is no legal claim for that."

(127): "If anyone raises his finger (in token of insult or menace) against a consecrated woman, or a vestal, or a married woman, and cannot prove it (his charge), that man shall be prostrated before the judge and his forehead branded." Mosaism has no parallel to that. V M., 25.11, states: "When a woman, in a quarrel, takes hold of the pudenda . . . her hands shall be lopped off," is a complicated case and no parallel to Hammurabi. Moreover, it was set aside by the Talmudical criminal procedure as obsolete.

(128): "If anyone marries a woman without a written marriage contract, that woman is not a wedded wife." Just the same is originally Rabbinical law; the document is termed the *Kethuba*, written agreement. Nevertheless, this was later assumed as self-evident, and hence when the public law screens

the wifely rights, no such written act or Kethuba is necessary (which is now the fact all over the civilized world).

(129): "Adultery is punished with tying both the offending parties and throwing them into the river—except if the husband chooses to pardon her." Mosaism knows not any such exception; adultery is punished with death, not drowning. Still the Rabbinical law rendered death punishment pretty rare, the legal proofs being very hard to furnish. But in principle adultery is a deathly crime, private and public; the pardon of the husband alone is of no avail; society, morality, the divine justice, are offended.

(132): "Suspicion of adultery is settled against a married woman by (the ordeal of her) jumping into the river." The text says: "If a hint is thrown out against a married woman, not caught *e flagrante delicto*, she shall submit to the water ordeal to satisfy her husband's suspicions." This is rude and crude. Better to the point is the Biblical water ordeal, viz: Mosaism subjects her to the ordeal of drinking the *bitter waters*,¹ which simply work upon her consciousness, either of guilt, of innocence, or of simple indiscretion, without unnecessarily hazarding a human life. Here, too, we may measure the immense superiority of the Mosaic over the Babylonian Code. Here the suspected woman jumps into the river and is drowned or not, according to the current and depth of the river, not her guilt or innocence. This is a piece of priestcraft and jugglery. In Mosaism the ordeal is fully psychological, innocent and hits the nail on the head. She is either an adulteress or at best an indiscreet creature. She is first subjected to a public judgment, whether there be cause for suspicion; the mere marital jealousy is not sufficient evidence for such a trial. Then she is to appear, with her husband, in the national, revered Temple, with a coarse-meal sacrifice, a jealousy offering; she is unveiled, her hair disheveled, exposed to the gaze of the multitude; the priest questions her, holding up a water-cup, mixing it with some simple dust from the altar, pronouncing a fearful imprecation

¹IV. M. 4.24 מי המרים המאררים

over her if she be guilty, writing that curse down upon a tablet, dipping it into the cup; and she, answering Amen! Amen! to that horrifying conjuration, swallows it down with the water! That curse and her own conscience now work upon her morally, psychologically; she dies from shame, fear and remorse; or, if she feels innocent, she comes out unharmed and triumphant, having proven by her bold submission to the trial her purity and honorable innocence, shamed her malicious accusers and rivals, and compelled her credulous husband to acknowledge her rescued standing, chastity and good character. Nobody will deny that here is a method of proving innocence infinitely superior to Hammurabi's, or to any other ordeal of more recent times, even to our present duelling. If at all, the Mosaic one is more psychologic and more to the point. (See Sota, Mishna, VI., 2.; II., 2-5; III., 4.)

(133-134): "If a woman whose husband has become a war-prisoner leaves her house, though provided with the necessaries of life, and goes to another man's house, she shall be thrown into the river, if convicted. But if she is not provided in her own house and leaves it, she is not guilty (of misconduct)."

(135): "If unprovided at home, she goes into another man's house and has children by him, and later her first husband (released from prison) comes home, she shall return to him, leaving those recent children with their own father." Here is a specimen of Canaanitish, Babylonian laxity and immorality, against which the Pentateuch often warns its people, as "an abomination before God." The Rabbis are very lenient to a woman abandoned by her husband (*Aguna*), but not to such an extent; poverty excuses no adultery and cleanses no bastards. In Babylon it did. Still, "Children not to die for parents' sins" is Mosaic, too.

(136): "When anyone leaves (voluntarily) his house, his forsaken, unprovided wife shall not return to him on his coming home." The Talmud is lenient to such an *Aguna*, still not to such a degree. The Biblical word does not provide for the case. Apparently abandonment was rare then. The modern law pronounces divorce.

(137): "When a man desires to divorce his wife or his concubine of whom he has children, he must return to her her dower (Nedunyah), and give her besides part of his field, garden and earnings, that she have wherewith to rear her children. When these are grown, she shall get, as her own portion, as much as any one of his sons, and she may re-marry whomsoever she pleases." This is nearly Rabbinical view, too.

(138): "If she has no children, he shall return her the full wedding presents and dower brought home from her father's house and dismiss her. But if she never had any, he shall give her one mine in silver as a gift of dismissal." Similar is the Rabbinical law termed *Kethuba*.

(145): "If anyone has a wife that bears him no children and he determines to take a concubine, then that secondary wife is not to act proudly, as the equal of the legitimate (first) wife." This covers the case of Abraham, Sara and Hagar. The Deity coincided with Sara's plea (Gen., 16).

(146): "If anyone has a wife and she gives him a handmaid to be his (secondary) wife, who, bearing him children, claims the rank of her mistress, because she bore children, then her mistress shall not sell her for money; she shall degrade her and place her among her household slaves." Abraham did better; he sent Hagar to her old home; unfortunately, there were no hotels and no Pullman cars at hand, *hinc lacrimae*.

(147): "If she bore no children, her mistress may sell her for money." Sara did not. This throws all the necessary light upon the difficulties between the rivals, Sara and Hagar; Abraham had to conform to those general customs, alluded to in aforesaid paragraphs, and Hagar's case was settled by these customs of Canaan-Babylonia.

(148): "A wife habitually sick with consumption shall not be divorced, but kept and supported for life in the marital house. The husband can marry another woman." This is Rabbinical law, too.

(151): "Husband and wife, respectively, are not personally responsible for debts either of them had contracted before their marriage union." The same is the Rabbinical view.

(152): "They are both responsible for debts contracted by either after their union." The Rabbinical view here is not perfectly clear. If she was a contracting party and is, besides, mistress of a fortune, it will coincide with the Babylonian Code; if not, not.

(153): "A wife causing the assassination of her husband for the sake of another man, shall be impaled." According to the Pentateuch and Rabbis, only the perpetrators, not the conspirators, are liable to death penalty.

(154): "In case of incest of father and daughter, he is punished with exile." The Pentateuch inflicts death on both.

(155): "If with daughter-in-law, he is tied and thrown into the water. The woman is excused, being subject to the authority of the father-in-law." Mosaism accepts no such excuse.

(157): "That of mother and son is punished with fire-death of both, both being responsible."

(158): "That of stepmother and son; he is punished with exile from the parental house. She is condoned as a dependent." The Pentateuch punishes both alike, woman being responsible, just as man.

(162): "The dower of a dead wife belongs to her sons (not her parents)." The same in Rabbinical law.

(167): "A man with several wives, and hence several sets of children, entails his property alike and equally to all his children; only the portions of their respective mothers belong to the mothers' children, respectively." That is also Rabbinical view.

(168): "A father desiring to oust his son from his inheritance shall submit his reasons thereto to the judge, who shall alone decide and pronounce the verdict, whether these reasons are sufficient or not." This is very original and very interesting. The Rabbis simply deprecate disinheriting a son. The Pentateuch sends parents complaining of their bad sons to the judge, (see above).

(169): "Even if the guilt be grave, it should be condoned the first time; not a second time."

(170): "The sons from a maid-servant, if expressly called 'sons' by the father, are his legitimate heirs, at par with the sons

of the legitimate wife. Only the (first-born?) son of the legitimate wife chooses first his share. The rest is equally divided among the sons of both the women." This is remarkably liberal; of course, there was then no color-line prevalent and no race question involved in the case. It was really but a question of poor and rich, free and unfree, mothers. The Rabbinical Code declares in every case all the sons of the same father his equal heirs, the first-born alone to have a double share, a remnant of ancient aristocracy.

(175): "A slave marrying a free woman, their children are free-born; the master of the slave can raise no claim upon them." In all mixed marriages the Talmudical law gives the children the status of the mother.

(183): "The daughter of a secondary wife who had received a marriage portion and been legally married to a man, can raise no further claim on paternal inheritance." The same is the Mosaic and the Rabbinical view: The sons inherit and the daughters are married, and no discrimination concerning their mothers.

(184): "If she has received no portion and has got no husband, the brothers shall endow and marry her after the father's death, according to the amount inherited from him." Just so enacts the Talmud. In all these statements the Talmudical and the Babylonian law coincide.

(195): "If a son beats his father, his hands shall be cut off." Mosaism sets the penalty of death even on mere gross insult or gross disobedience. Still, the Rabbinical law practically disestablished it, as nearly all capital punishments, by its many technical requirements, as witnesses, warning etc.

(196): "Who destroys the eye of another, his eye shall be destroyed." So Mosaism, the principle of *talion*. But Rabbinical tradition ordains practically a money compensation.

(197): "Who breaks the bone of another his bone shall be broken." Mosaism prescribes the same; tradition exacts money compensation, a later development.

(199): "When one destroys the eye or the bone of a slave, he must pay half of the latter's purchase price" (to the master);

no atonement for the slave. Mosaism grants him his liberty for that maltreatment.

(200): "The same is tooth for tooth of a free-born; of a pauper or slave is one-third of a mine in silver" (to the master). The Code discriminates between an equal, a poor man and a slave concerning assault and battery.

(202): "Beating a person of a higher rank is punished with ox-hide blows." The Mosaic Law knows no such discrimination. All the citizens are equal before the law, even the non-Jewish bondsman is still a human being and protected from injury; he gains his liberty when his master abuses his dominical rights.

(203): "Beating a minor is punished with one mine of silver." The Rabbis used no *lex talionis*; they substituted a money compensation for hurt in limb; so they interpreted "Eye for eye, tooth for tooth." Beating a pauper-minor costs ten shekels of silver; such was the Babylonian hierarchy.

(205): "A slave beating a freeman-minor shall have his ear cut off." Neither Thora nor Talmud know of such cruel punishments and such discriminations. That savors of conquest and constant suppression of social upheavals by cruel punishments.

(206): "Beating another in a fight, one shall swear that it was done unintentionally and pay the physician's fee;" and no more! Rather a lame excuse! good for Sodom.

(207): "If the beaten person dies (from the blow), one-half a mine in silver is the fine."

Here we see the Babylonian *lex talionis*: "Eye for eye and tooth for tooth," applied only among social equals. The three-fold distinction between a free-born, a liberated man, or pauper and a slave, is severely kept up. That is the principle of aristocracy and conquest. Hammurabi was the conqueror of Babylon, Moses was the liberator of Israel; therefore is the Mosaic *lex talionis* in Judæa unexceptional and democratic, life for life and hurt for hurt; killing even a slave incurred the death punishment. A heathen-born slave harmed in tooth or limb goes free. A Jewish slave is a full citizen; that is infinitely more liberal¹

¹II. M. 21.24—III. M. 24.20—V. M. 19.21—Matth. 5.38.

than the Babylonian statute. The one is the Code of a liberator anxious for his entire people; the other is the law of a conqueror, anxious for his conquest and his conquering clan in arms against the subjugated people.

(209): "Beating a woman that she loses her fetus, entails ten shekels fine."

(210-214): "But if the woman, too, dies from the injury, then the daughter of the slayer shall be killed." Here is the barbarous family solidarity, abolished by Mosaism. "If she is but a pauper woman, he pays one-half of a mine in silver, if she dies; if only her fetus die, he pays five shekel silver. Smiting a slave-woman's fetus costs two shekels; killing herself costs one-third of a mine silver."

Here is a most curious piece of legislation! Since a woman was deemed to be inferior in money value to a man, hence, not the male murderer, but his innocent daughter was to die in expiation, and this was according to the barbarous principles of *talion* and of family solidarity. Here is the *lex talionis* pushed *ad absurdum*. Not the murderer, but his proxy; not the guilty man, but a woman, his innocent daughter, dies for the murder of a woman! That reminds of that village community which, in expiation of a murder, offered an innocent tailor to be hanged, in place of the guilty smith, because the community had several tailors and but one smith; hence it could rather spare the tailor (for the gallows) than the smith. The Talmud-Sanhedrin remembers many monstrosities about the justice of Sodom and Gomorrah. Our paragraphs, 210 to 214, are of that pattern.

(218): "If a physician, operating with the knife, kills the patient or destroys his eye, he shall have his hands cut off." A timely warning for surgeons!

(219): "If the patient is a slave, the physician must restitute another slave."

(220): "If he destroys his eye, he must pay half his purchase price" (to the master).

(229): "If an architect builds a house, which collapses and kills the house owner, the architect shall be killed." Here is a crude *lex talionis* observed; but is it just and wise?

(230): "If it kills the son of the master, the son of the architect shall be killed." Here again is the barbarous principle of family solidarity, repudiated by Mosaism, which declares: "Every one dies for his own sin."

(231): "If it killed a slave, he must restitute another slave."

(232): "If it damaged goods, he must pay from his own property and moreover rebuild the collapsed structure." All bad work is answerable and to be made good by the negligent, incapable or unlucky worker or enterprenor. For good services the physician, architect, workman etc. must be paid (Secs.268-274), and prices are specified." The Pentateuch is silent on that leaving it to the offer and demand principle; maybe also because in primitive, humble social conditions every farmer was his own physician, builder etc., pointing to the hoary age of the Law.

(245): "If anyone hires an ox and kills or damages him by bad treatment or hard blows, he must restitute ox for ox." The *lex talionis* is applied alike to citizen, brute and slave.

(250): "If an ox kills a man in the street, his master is not responsible for it." Such was Mosaic Law, too.

(251): "If the ox be (habitually) a goring one, and his master, though forewarned, still neglected to take care and provide against that, he shall pay half a mine in silver." The Mosaic Law states death or a redeeming fine (see Baba Qama, 101.a). The general legal principles were, no doubt, familiar to the Talmudists, but they were governed by Mosaic views, not Babylonian ones.

(253): "If any one hires a man for field-work and he steals grain or plants therefrom, his hands shall be cut off." Here is punishment in body for hurt in purse. Mosaism, democracy, rejects such enactments. In Babylon the land owners were of the conquering class, and the laborers of the subjugated one; here the lawgiver cared for the first only. Strong parallels one finds in the feudal agrarian enactments of the Barons.

Even the Roman Codes and the Middle Ages legislations did not reach the Mosaic, democratic justice. Until the Code Na-

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oleon, human life was less protected than property, and bodily punishment was entailed for hurt in purse. Stealing was felony, punished with death. In recent times still, robbery of ten cents' worth on the road entailed death on the gallows. In England, Austria, Russia and America this is still Common Law, I hear, though happily not carried out. A humane English Cardinal, not long ago, propounded that a poor, hungry man stealing a loaf of bread should not be punished. That feeling was an echo from Mosaism. Legitimacy deemed it a paradox and a fallacy. The Mosaic Law states that a thief, unable to make good his theft, shall work not over six years, in payment of the damage wrought. After six years' work he is restored to liberty and all the citizen's rights. His family could never be attainted. Crime is personal, timely, not transferable, never solidary, and not eternally blasting. The criminal, expiating his crime, was again a citizen and a brother. Here is the superiority of the Mosaic Code over all those of antiquity, down to the present times. For that spirit of true humanity and benevolence it became the pattern of the present incipient, more liberal legislations. That is the spirit wafting from the Moriah Mount, gradually permeating and vivifying the great legislating assemblies of the globe, and tending to make mankind feel as one family, governed by one interest and one law.

(265): "If a shepherd entrusted with keeping cattle or sheep, is convicted of defrauding the owner, he shall pay him 10 times the price of the stolen goods." Mosaism reduced it to two and five fold.

(266): "If by the will of the gods (natural causation) or beasts of prey damage arises in the flock, the shepherd shall swear that he is innocent, and the owner must bear the loss." This is also the Rabbinical Law; an oath purges the hired man.

(282): "If a slave tells his master: Thou art not my master, his master shall prove his ownership and cut off his ear." This is again a piece of barbarism, savoring of cruelty and fear, of aristocracy, conquest and enslavement, the leading features of conquered Babylonia.

The Stela with the Hammurabian Laws winds up with most fulsome praises and glowing glorifications of the King; he is there proclaimed to be backed by all the hundred gods and goddesses of heaven, earth and sea; and closes with a most ferocious imprecation and a horrifying ban against whomsoever who would dare in future to abolish or change that Code of 2250 B. C.

HAMMURABI'S CODE CONTRASTED WITH MOSAIC LEGISLATION.

The code just epitomized, we have seen, is assumed to have been promulgated by Hammurabi, King of Babylon, of about 2250 B. C., engraven on a Stela over a basalt pillar over seven feet high, in cuneiform script, containing 282 sections, and put up at first in the Temple of Bel Merodach, at Babylon, later carried away to Sippara etc. It was discovered and excavated by M. de Morgan at Susa, an ancient capital of Persia, in the winter of 1901-1902, copied and translated. Five of the columns with sections 65-100 have been erased by a later king and are missing. The lawgiver claims that his code intends to secure justice to every one, and that it was dictated to him personally by the gods. But apparently it has a much older background than Hammurabi's time. The bas-relief of the pillar represents the god Bel dictating the sections to his favorite, the inspired King.

Curious, the very first paragraphs of the Code are devoted to witchcraft and enchantment, distinguishing if honest or not! The person charged with witchcraft is to submit to an ordeal of water for verification! Here is a striking contrast to the Mosaic Law, which treats witchcraft but incidentally and contemptuously as a dangerous pagan fraud in all cases, and not asking for any further impossible proof: All witchcraft is a lie, abominable, most dangerous to society, and hence criminally to be punished; an abomination to Ithv and men, to be summarily expelled from the country.¹ That the Stela opens with that,

¹The Talmud reports that Simon, son of Shetah, once had a crowd of witches executed in one day, but that is mere legend. According to the criminal procedure of the Rabbis, they could not be convicted nor capitally punished on such grounds, and Simon kept strictly within the law.

with such prominence, gives it several detailed sections, distinguishes between true and false charms, ban and enchantment, and submits its victim to imminent death that shows saliently the baneful superstition of those times and that country, not known to Judæa.

CUMULATIVE ACCOUNTABILITY.

The responsibility of the contracting parties proves again the inferiority of the Babylonian Code to the Sinai one. This one states repeatedly and as a leading legal axiom, that: The parents shall not die for the guilt of the children, nor the children for the guilt of the parents; every one shall die for his own sin.¹ In the entire legal procedure of the Pentateuch not a single instance can be found in violation of that principle. Responsibility to man before human justice is strictly personal; neither the parents and the wife, nor the children, relations and collaterals are accountable for the deed of the accused one. Otherwise is Hammurabi's law; responsibility and punishment is entailed upon the entire relationship: "If an architect builds a house that collapses and kills the owner, the architect is to be put to death. But if the owner's son is killed, then the architect's son is to suffer death." Responsibility of proxy has been retained, too, by the Roman Twelve Tables and by the Codex Justinianus, and hence by nearly all the Middle Age codices. The modern laws, begun with the enlightened Code Napoleon, gave up that barbarism. Previously and at all times tyrants, imperial and ecclesiastical, involved the entire family of the offender in his ruin, anxious to silence and secure oblivion to themselves and to their usurpations by such cumulative responsibility, thus exterminating the entire race of the offender. The Mosaic Law alone protested against such tyranny and declared: No one shall suffer for the (assumed or real) guilt of another. The Decalogue extends, *morally*, responsibility to the *third and fourth generation*, and divine mercy to *thousands of generations*, just as it is daily verified in nature and in history; but that does not

¹The parents shall not die for the children's sake, nor the children for the parents'. Every one dies for his own guilt." (V M., 24.15.)

militate against the present legal case, as enlarged upon here; God punishes and rewards collaterals, too; not so the human judge,¹ who determines upon each case singly; God alone can calculate the amount of solidarity of the social units respectively; the judge cannot.

THE LEX TALIONIS THERE.

The *lex talionis*, or law of retaliation, is in the Babylonian Code the all-pervading, fundamental, legal principle, by far more than is the Biblical one, "Eye for eye and tooth for tooth," which axiom we find literally in both these legislations. Still, there is an important difference, viz, it is diversely applied. Sentimentalists have much polemized against Mosaism on that account, declaiming that they want to have justice ever tempered with mercy, forgetting that to be merciful to the assailant is to be merciless to the victim. Even more: It is to sacrifice the welfare of society in order to screen a criminal from due punishment. The law of retaliation is a law of nature, and hence of society. But society punishes crime not from mere desire of revenge, but of self-protection, and its just and equitable measure is the *lex talionis*. Now, consider: The principle of *talion* is in the Mosaic Code really meant to be carried out: Eye for eye, hand for hand etc. The Law asks not whose hand was injured and whose hand did the injury. No! one person is just as good as another person, and one's hand or foot values just as much as another's hand or foot. That means equality of all, liberty for all, equal justice to all. That is Mosaic democracy. Not so is Hammurabi's law of retaliation: If one, socially inferior, kills or injures a superior (of the conquering race, for the Canaanites subjugated the native Babylonians as the Anglo-Saxons did the Britons, or the Normans did these and the aborigines), then there is one measure of punishment; if a superior kills or injures one of an inferior social stratum, then the crime and the punishment are weighed in other scales! Here is no justice, no *lex talionis*, no equity! Because the law discriminates between classes and masses, between the races, between conquerors

¹See Exod., 20.5-6.

and conquered. "Eye for eye and tooth for tooth," is thus not carried out. Here is aristocracy, not democracy; here is a conqueror and his horde that dictate to the subjugated masses. What they have gained by the bandit-sword of the condottieri, the Robber-Baron, they desired to hold and perpetuate by the shameless rhetoric and the pettifogging trickery of the lawyer. As remarked above, Mosaism legislated for a united people, the comparatively few strangers were assimilated, and the remnant of the not exterminated natives were treated justly, even tenderly. They were all free and equal, and justice was to be meted out alike to them. Hence "Eye for eye and tooth for tooth," viz, legal equality, was a fact, the scale of justice. Hammurabi, too, put that up as his principle, in theory, but he acted not always up to it. There were two rights, because two peoples, hence two scales of justice; and he took care that his party should domineer as long as he could help it by his code of laws, just as by his victorious sword.

THE OATH THERE.

The Babylonian code appealed most frequently to the testimony of a judicial oath. We today, too, unfortunately, have the litigants and witnesses swear on the Bible, but we have small trust in the oath. We ask for substantial proofs; the oath is a sort of ordalia, a remnant of old barbarism, as are duels and battles. The plain fact is, whosoever lies, steals, defrauds, will even the more easily perjure himself. Our judges know very well that the oath is valueless, but they go perfunctorily through the motions. The honest will not lie, and the dishonest will lie and swear to it. The Babylonian Code administered very frequently an oath to the litigants and took it as a full proof; that is astonishing! If we could read between the lines of that Stela, we would find that the oath was but a subterfuge, a spurious trick, how to circumvent and bend public justice. I justly suspect the judges there ever gave the oath to the dominant caste and the ordeal to the subjugated one. The Mosaic Code pretty seldom adjudicates an oath to a litigant, and only in extreme cases where no other proof and no witnesses are possible, and only when there is a certain presumption that the oath

is correct, a certain amount of probability, or what we would term, circumstantial evidence, and even then the rabbinical interpretation reduced it to a half-testimony, to a mere shadow. Where the Babylonian Code relies on the oath, the Rabbinical one bluntly declares: "Whosoever will get out something held by his neighbor must bring testimony," prove it, not swear.¹

BUSINESS TRANSACTIONS.

All business transactions must be done in writing, the *books* must record it, and only a contract, an obligatory note, a receipt, an order in writing, is legal evidence. That is business-like, to the point and, no doubt, hails from Canaan and Phœnicia, the classical and shrewd merchants of Tyre and Sidon. But how that straightforward axiom could square with the proof of an oath and an ordeal I cannot imagine. Here was again the happy sphere of the "*fides punica*," and the Babylonian pettifogger. The Mosaic Law ever insists on witnesses,² apparently because calculated for an agricultural, uncommercial people, less proverbial for Phœnician lying than Carthage and Tyre. The Talmudical law admits both, the written testimony and by witnesses; in important cases, as marriage and divorce, it required both.

The relation of employer and employee, capitalist, lender and debtor, principal and agent, are carefully prescribed and, as far as I can guess, ever giving the advantage to the ruling, the stronger, party. Land-tenure is conditioned on cultivation and occupation of the ground; neglecting a farm is sufficient cause for forfeiting it. Women holding disorderly premises, or frequenting drinking establishments, were criminally punished. The Biblical Code rigidly prohibits the first; the latter is unheard of in the Hebraic nationality.

DOMESTIC LAWS.

The position of woman in Babylonia, Egypt and Judæa was good, her status was honorable, her rights guaranteed and the

¹המוציא מחברו עליו הראיה. is Rabbinic axiom.
²על פי שניים עדים יקום דבר 17.6—19.15 V. M.

future of her children secured. In all three countries polygamy seems not to be legally prohibited, but *de facto*, socially, morally discouraged, and tolerated only as a rare exception, in cases of barrenness or chronic sickness of the legitimate wife. Even then she could not be dismissed, but was to be kept and supported in the house. Even then the hand-maid taking her place was to pay her respect and acknowledge her superior wifely rank, or bear punishment. That explains the situation of (I M., 16) Abraham, Sara and Hagar. Marriage was by contract, written and certified, and a dowry stipulated, or null and void, just as in the Rabbinical law. Causes for divorce are not specified, still the repudiated wife, when guiltless was to be provided for. There can be borne out a certain parallelism between the Babylonian and the Rabbinical marriage and divorce provisions. The view of the Hillelites, not of the Shammaites, appears to be that of Hammurabi's Code. Disrespect to a parent and going by an ox is mentioned there, too, but otherwise treated than in the Mosaic one. That bad architects and bad physicians are punished for bad services, and according to the axiom of the *lex talionis*, is much to the point; the luckless surgeon has his hands cut off and the luckless architect shares the fate of his victimized client.

SLAVERY.

The harshest phase of the Babylonian Code is its enactments regulating slavery. Here we see the immense distance between the polytheistic morality and the monotheistic one. The relation between the strong and the weak, rich and poor master and slave, native and stranger, the paupers, especially the widows and orphans, are entirely passed in silence, or they are put down as a pauper-mass, a mob, as if condemned to eternal drudgery and wretchedness, as natural pariahs, and by all the legal institutions simply sacrificed to the upper classes. No laws of charity and benevolence, no spark of solidarity and altruism to mitigate misfortune or social injustice! Not a word to recommend them, provide, uplift, protect them. The slave offending the master only with a word has his ear cut off. If running away, he is to be brought back by force, for a reward, to the captor, and

he is at the absolute mercy of the master, without any security of life and limb or humane treatment. He, his wife and child are the master's chattel. Small larceny by a laborer is punished with cutting off his hand. Not a word about liberating the slave, or his fair treatment, or mercy for or sparing the brute. The slave, the ox and the chattels are on the same level, the property, absolutely, of the master.

It is Mosaism that ordained a Sabbath-day, "to the end that thy ox, thy slave and thy stranger shall rest and recuperate" (II M., 23.12, V M., 5.14). The same mean the holidays. If, as claimed by some Orientalists, the word *Sabbath* is to be found in Babylonian records, it surely meant a day of jollification for the rich, and of double drudgery for the dependents. Such days of such sympathy and charity alone prove the humanitarian import and the superiority of a noble legislation and its divine inspiration. The Babylonian Stela makes for conquest, dominion and enslavement. The Sinai Code for enfranchisement, individual, social and moral elevation, and that is its seal of divinity. The lack of charity and altruism in the Oriental code is at first the outcome of polytheism, with its local gods, the many races and various origins, rights and interests. It is next and saliently the characteristic of a code imposed by a conqueror upon the conquered, with the purpose not expressed in words, but in acts, to be clearly read between the lines, that it aims at perpetuating conquest and subjugation, at legalizing, sanctioning and strengthening the tight grasp of the masters over the slaves, and not to give the latter any chance of recuperating and obtaining their independence. No Sabbath and no holiday for the slave and the poor; diametrically the antithesis of the Mosaic legislation, enacted for the people, a homogeneous democracy.

After this short analysis we deem it unnecessary to enlarge and emphasize any further upon our theme, and discuss the influence on, if any, and the relation of that oldest Oriental Code to the Sinai one; its infinite superiority and genuineness are evident.

There can no doubt be entertained that we have there before us the statute-book of a king and a conqueror, who desired to secure by law, stability and order what he had gained by his arms. His aim was the safety of his dominion and his empire, by establishing order and security in the state, obedience to the chief and the law and political stability. He again aimed, from personal motives, at securing the preponderance of his own clan and his army, over the subjugated people. His laws in every instance tended towards that partial object, viz: To maintain his authority by the policy of "*divide et impera*," hence to perpetuate and solidify the distinction between the dominant classes and the subject masses. On the contrary the Mosaic Code had but one people in view, the Bene-Israel; whilst the native Canaanites are presumed there to be destroyed, driven out of the land or assimilated and incorporated. They are therefore treated without jealousy or any discrimination, and rather sympathetically recommended to the benevolence and the protection of the law, the government and the one and integral homogenous people, Israel, alone occupying and owning the land, once tilled by their sires and fathers and entailed on them by inherited right and by arms, the right of conquest.

Not a single time do we find in the Babylonian Stela a word of sympathy and endearment by the lawgiver towards his wards, the people. It is a conqueror who pines for rest, security and stability, waging the war of fire, water and sword, drowning and maiming against whomsoever who would dare disturb him in his martial acquisitions. Cunningly and naturally, he ever gave the advantage to his own clan and army, who helped him to conquer and retain the land. The Judæan, Mosaic Lawgiver ever appeals to the good fellow-feeling of his people, addressing them as "The children of thy people, thy friends, brethren and fellow-men." "Let thy brother live by thee," "Be afraid of God," "God will bless thee for being kind and sympathetic to him." Hammurabi bids and commands by the authority of his sword, "*Suprema lex regis voluntas!*" Even the 100 gods are

בני עמך, רעך, עמיתך, וחי עמך, ויראת מאנהיך, ויברכך אלהים

merely his tools and his satellites. It is but a cunning condescension on his part when he puts forward the hypocritical claim to be their agent. As Timoleon, the Corinthian leader, so Hammurabi, when he heard his praises chanted by his Canaanite companions, could say that he is thankful for all those brilliant deeds he had achieved to the gods alone, who, since they wanted to render his clan great, they had made him such a valiant leader.¹

On the whole, the Canaan-Babylonian relations to each other is similar to that of the Teutonic conquering invaders to the Romans, or that of the Anglo-Saxons to the Celts, or that of the Normans to the subjugated Anglo-Saxons and aborigines.

There are but very few instances where the Mosaic Code coincides with the Babylonian one; such are the cases of the marriage of a secondary wife, the granting to daughters a wedding dower, the law of inheritance and that of primogeniture. Whilst their contrasts and opposite views are almost general and legion, especially antagonistic are they in their spirit. In the grand total the Mosaic Code is infinitely wiser, milder, juster, purer and, above all, more humane, liberal and democratic. It ever tends to elevate the masses and repress the pride of the classes; to penetrate and permeate both with the idea of one Father and God, one law for all; sympathy, altruism, charity and forgiveness; to pluck out the sting of envy, invidiousness and bitter rancor from the poor man's heart; the pride, coldness and haughtiness of the strong, the greed and accapuration spirit of the rich. The very antithesis to that is the Code of Hammurabi. That code is the will of a conqueror, written with the point of the dagger dipped in blood, aiming at perpetuating his empire, his own classes and the lowly masses, as nobles and plebeians; not a democratic, homogeneous people, which, as young Israel, shall stand and continue for thousands of years and fight the battles of human liberation. The Babylonian Stela, with its

¹Corn. Nepos, *vitæ imperatorum*, Cap. IV.: Quum suas laudes audiret prædicari, nunquam aliud dixit, quam se in ea re maximas diis gratias agere atque habere, quod, quum Sicillam recreare constituissent, tum se potissimum ducem esse voluissent.

282 sections, contains, not a shadow or a trace of the spirituality, holiness, sympathy, purity and veracity lessons and ideals of the Bible. "Holy shall ye be for holy is God," "Thou shalt love thy neighbor as thyself," are not even hinted at in the lines of the Stela. Nor would ever a votary of that law have aspired at martyrdom or for the kingdom of heaven on earth. Such ideals and Utopias are perfectly foreign to the practical spirit of the Babylonian Code. What that aimed at was the realism of Bismarck, the polity of annexation by "iron and blood"! It is therefore preposterous to put that in competition and rivalry with the Sinai Code. It is a gross piece of anti-Semitism, odiously misapplied to science and history.

PROFESSOR SAYCE ON IT.

The above treatise on Moses and Hammurabi was written and, in major part, published in a weekly St. Louis paper, when I wrote about it to my honored friend, Professor A. H. Sayce, of Oxford and Cairo, imparting to him my decided views on that subject. The following is his reply, he fully coinciding with them. Soon in England he wrote me again, informing me that he had lectured there on that theme and entirely from the same standpoint. As in Germany, so in England there was a great hubbub on the matter. I give the reader the benefit of the Professor's letter:

"DAHALLIA, ISTAE, CAIRO, EGYPT, NOV. 20, 1903.

"*Dear Dr. Fluegel:*

"I am once more back in Egypt, as you will see. I have spent the summer over Khammurabi's Code, and have been more and more impressed by its contrast to the Mosaic one. The one is addressed to a commercial monarchy, the other to a compact body of confederated tribes. The first is Draconian in its severity, the second starts from the belief that crime is really sin. This is the difference between law founded on force and utility, and law which recognizes a moral and Scriptural basis.

"A. H. SAYCE."

THE TWELVE TABLES OF ROME (449 B. C.)

We offer here extracts from the Roman Twelve Tables, viz, such sections as have some analogy with the Mosaic Laws, either assenting or dissenting, adding thereat some succinct remarks in elucidation.

(Table II., 4): "Theft may be the subject of compromise." That is rather of a doubtful polity, especially since theft sometimes entailed death. Mosaism has the thief pay, according to the property stolen, the principal and one-fifth over and above; in graver cases, two, four and five times as much as the original value, specifying each case.

(Table III., 1): "In case of an admitted debt, 30 days shall be allowed for payment." Mosaism is not so exacting, whilst the Release Year cancels all indebtedness, the law aiming at avoiding pauperism, enslavement and wealth aristocracy.

(2): "In default of payment, after 30 days the debtor may be arrested and brought before the magistrate." The Rabbinical practice would advise here patience and leniency, conforming to the Pentateuch.

(3): "Unless the debtor pays, or some one guarantees the payment, the creditor may take the debtor away with him and bind him with fetters." Not so Mosaism, as seen above; the person can never be taken in pledge.

(4): "If the debtor (thus fettered) be poor, the creditor shall give him at least one pound of bread daily." The Thora allows no imprisonment for debts: "Eye for eye" and goods for goods, nor does it allow starvation rations. The Talmud ever prescribes the same food for master and slave even.

(5): "If the debt be not paid, the debtor may be kept in bonds for 60 days. In the course of this period he shall be brought before the Prætor on the three successive market days, and the amount of the debt shall be publicly declared. After the third market day the debtor may be punished with death, or sold beyond the Tiber" (eternal slavery). Mosaism allows hiring him out for six years' labor as the maximum.

(6): "Or the creditor may cut off several portions of his body. Any one that cuts more or less than his just due, is guiltless." That is the utmost possible barbarity. According to the Mosaic Law, nothing of all that is allowed for debt; neither personal imprisonment, nor 60 days in bonds on bread and water, nor putting to death, nor definite enslavement, nor cutting off pieces of his body. That statute remained intact in the Codex Justinianus, passed to Christian Italy and commercial Venice, and hence Shylock, asking for a pound of flesh from his debtor, relied not on the Mosaic Law, but on that of the Romano-Venetian one. Mark this well, Reader!

PATRIA POTESTAS.

(Table IV., 1): "Monstrous or deformed offspring may be put to death." This is strictly forbidden by Mosaism!

(2): "The father shall, during his whole life, have absolute power over his legitimate children. He may imprison his son, or scourge him, or keep him working in the fields, or in fetters, or put him to death; even if the son hold the highest office of state and be celebrated for his public services, still he may be sold by his father as a slave." Mosaism allows the (*starving*) father to sell his (minor) daughter—into marriage.

(3): "He may sell him even for the third time; after this the son is free" . . .

All this is built on the principle of "parental power," family-slavery; Mosaism is built on universal liberty. Therefore the grown son was absolutely free in person, goods and actions; he could not be put to death, or scourged, or fettered, or kept to involuntary work, or sold as a slave. A minor daughter (below 12½ years), of a very poor father, could be sold into marriage, but after 12½ years of age she also was free to leave. And even that was practically abolished by the Rabbis. A rebellious son, with dangerous, premature viciousness, was to be examined and punished by the Elders, and this only on very grave grounds, as a precautionary measure, and greatly limited by the rules of the procedure, yea, rendered nigh impossible.

(Table VII., 5): "For the settlement of disputes (as to boundaries) three arbiters shall be appointed."

Three arbiters' settlement is also the general rule in the Talmud, though exceptionally one expert, *Mumhe*, with authority, would do; still termed bold, *huzeph*; three men make up a judicial court; two witnesses are proof of an allegation.

But the Roman arbiters were but delegated judges. The case was first heard by the state magistrate, who appointed them to settle it on certain legal lines, akin to our judge defining and leaving the case to the select jurymen; an important feature not known to the Rabbinical procedure, and which shows the Roman legal profession to come next in acuteness and valor to the Roman legions.

TORTS.

(Table VIII., 1): "Whosoever will publish a libel (imputing crime or immorality to any one) shall be beaten to death with clubs." The crime and the revenge are peculiarly Roman, patrician, exceedingly harsh and cruel; there is nothing of the kind in Pentateuch or Talmud. The first forbids it,¹ but the latter imposes no *stripes*,² the less death, for it.

(2): "If a man break another man's limb and they do not compromise the injury, he shall be liable to retaliation." This is opening the door to a forest of litigation. Apparently, but not really, here is the Mosaic law of *talion*: "Eye for eye, and tooth for tooth," which the Talmud correctly interpreted as meaning an adequate, equal compensation in money, price of an eye for an eye. So, at any rate, it is the axiom of human equality and straight justice, equity. Not so in the Roman law. There were different standards, scales and weights. There were different classes, persons, limbs and their diverse values and prices, fixed by arbitrary arbiters. There were limbs of patricians and of plebeians, of Senators and of knights, of allies, friends, enemies, foreigners and slaves, of women and children, of privileged persons and those beneath the law. Hence the *lex talionis* was but a screen for the arbitrariness of the judges and the strong and fruitful field for chicanery.

¹II. M. 23.1 לא תשא שמע שוא

²Since a prohibition without an action entails no stripes, לאו שאין בו מעשה, a general juridical axiom.

(3): "For breaking a bone of a freeman the penalty shall be 300 ases; that of a slave, 150." No doubt, each social rank had its own price-list, adjusted by the arbitrary arbiter. The Mosaic and the Rabbinical Laws were democratic and ignored legal discriminations.

(6): "A quadruped that had done damage on a neighbor's land, shall be given up to the aggrieved party, unless compensation is made" (adequate to the damage). So, too, is the Mosaic Law. Here is the axiom, "Eye for eye" etc. ruling the case.

(8): "A man shall not remove his neighbor's crops to another field by incantation, nor conjure away his corn." That Roman chief magistrates, lawgivers, still believed in such torts is significant enough. The Hebraic one did not. The Talmud is silent on such pleas.

(9): "An adult person depasturing or cutting down a neighbor's crop by stealth, in the night . . . shall be devoted to (goddess of vegetation) Ceres and hanged." That is at once inadequate, harsh and superstitious. The punishment is immeasurably beyond the crime. The principle of "Eye for eye and tooth for tooth" warrants property for property, not life for trifles of property. The Roman law was dictated by a victorious race against conquered ones, the first, generally, the landowners, the latter the original owners, now subject workers, peasants. Whilst the Mosaic Law is enacted upon a unique or at least assimilated, united people, a democracy of equal citizens, small farmers and free workers, the Twelve Tables, as Hammurabi's Code, we have remarked, aim at perpetuating the dominion of caste and conquest. The Mosaic one aims at an equal, homogeneous society; hence the difference.

(10): "If a man wilfully set fire to a house or corn field . . . he shall be bound, scourged and burnt alive." All that is the dictation of the conqueror to the sly and treacherous, subjugated party, each fighting with his own weapons. Mosaism simply states he must pay, according to the rule: "Life for life, eye for eye, and property for property."

(12): "A person committing theft in the night may lawfully be killed."

(13): "But in daytime a thief shall not be killed, unless he defend himself with a weapon." II M., 22.1, states: "If the thief breaks (into a house) in the dark and is killed, there is no murder; if in daytime, there is." The Talmud interprets otherwise (see above on this), still humanely.

(14): "If theft be committed in daytime and the thief be taken in the act and do not defend himself with a weapon, then, if a freeman, he shall be scourged and remain a bondsman to the person robbed; if a slave, he shall be scourged and be hurled down from the Tarpaian Rock." Mosaism enacts: (II M., 23.1-2) "If the thief on being found breaking into the house (in the dark) is smitten and dies, there is no murder; but if in sunlight (daytime), there is murder; (if alive) he is to pay; if he has not, he shall be sold (for six working years) for (the amount of) his theft." No scourging, no death, and no eternal slavery. Human life and liberty are higher than property. This is the Mosaic theory and practice; whilst to the Roman and the Babylonian lawgivers property is more precious than life.

(18): "A money lender exacting higher interest than the legal rate of 10 per cent. per annum is liable to fourfold damages."

Mosaism forbids all interest on money, or any profit on goods taken from a countryman; from the commercial stranger it is allowed. Whilst the Rabbis discriminated only between business loans and loans from poverty and distress.

(23): "False witnesses shall be hurled down from the Tarpaian Rock." Moses states: (V M., 19.19) "As he maliciously intended to do, shall be done unto him." This again is the just axiom of "Eye for eye" etc., overlooked by the Roman law.

(24): "If one kills another accidentally, he shall atone by sacrificing a ram." Mosaism ordains here exile, more commensurate with the deed, especially as killing "accidentally" is, in fact, most frequently murder unproven, homicide in second degree, for which a ram-sacrifice is entirely inadequate; while stealing a crop is a capital crime. This again shows how to the Roman patrician the life of the plebeian was cheap.

(IX., 3): "An arbiter convicted of bribery is to be punished with death." Here, too, should the *lex talionis* be meted out; nothing more or less; a heavy fine and loss of office should do.

(6): "No one shall be put to death, except after formal trial and sentence." But this militates against the *patria potestas*. The father could arbitrarily kill his child. Mosaism allows neither the State nor the father to kill without public trial and sentence; ever it requires two witnesses and judges, and the Talmud requires even a warning, defiant acceptance etc.

SACRED LAWS.

(X., 1): "A dead body shall not be buried within the city." The Pentateuch declares the dead impure, hence he must be buried out of the city limits, from reasons of Levitical cleanliness, identical with public hygiene.¹

(3): "Not more than three mourners shall be draped in special mourning, and not more than ten flute-players attend the funeral." Many more sections prohibit too great display at funerals.

It was Rabban Gamaliel, the Nassi, who abolished all extravagant funeral pomp by ordaining to be buried himself in plain white shrouds, a custom still retained by conservative Jews. Funerals used to be very onerous and costly; they begin to be so again. Our American fellow-citizens often set the example of great display at funerals.

(X., 4): "Women (as mourners) shall not tear their cheeks nor indulge in wailing." The same nearly is ordained in the Pentateuch and Talmud. The latter frequently alludes to such wailing women and flute-players.

(XI., I): "Patricians shall not intermarry with plebeians." To show its great import, this single statute, of half a line, occupies the entire Table XI., and it is pregnant with the gravest results. It is the cue to the Roman society, its history, development and entire legislation. The entire legislation hinges on that pivot, the interests of the higher caste, the patricians. And in order to perpetuate them and the dominion of their caste (no

¹See my "Diet and Hygiene."

doubt, the conquerors of the subjugated native aborigines), not only the weight of the law was to confer the power on and retain it with that caste, but the chief social feature became the race predominance, the class division, classes and masses, the discrimination of origin, perpetuated in the offspring by forbidding intermarriage between the conquerors and the conquered clans or gens. And just here is the leading and most striking contrast between the Roman and the Mosaic Law. The Mosaic one, too, had something of an aristocratic class, the tribe of Levi, or rather the (*Kohanim*) class of the higher priesthood. But since that gens had its origin in sacerdotal, or in patriotic, or in political or family influence, not in conquest and military service, their power was but spiritual. The mass of the Levites and priests were but the equals of the rest of the nation before the law. They could and did actually intermarry with the mass of the people. The Pentateuch and even the Talmud ever rank the Levite with the poor and the orphan etc. The Rabbis recommended intermarriage with scholarly families, not with priestly ones. Their principle was: "A learned bastard is superior to an ignorant high priest." They formed no entrenched, hereditary aristocracy beyond the precincts of the Temple. And while their chiefs were leading, their rank and file were fused with the people in every respect, except their Aaronide, or priestly functions and prescriptions. Hence was Israel, notwithstanding the priestly clan, a democracy. Rome was an aristocratic State. Cæsar, rather than Brutus, headed the democracy, wishing to entirely abolish that XII Tables Law, half disestablished since the rise of Sulla and Marius.

SUPPLEMENT.

(XII., 3): "If anyone wrongfully obtain possession of a thing that is subject to litigation, the magistrate shall appoint three arbiters to decide the ownership, and in adverse decision the fraudulent possessor shall pay as a compensation double the value of the thing in litigation."

Three arbiters is also, as a rule, Rabbinical Law; but to pay double the amount of the contested object is peculiarly Roman,

and may be explained by the frequency of usurpations and as a measure to curb and restrain such robbery. Possibly it was enacted in favor of the plebeians, often oppressed. According to Mosaic and Rabbinical Law, possession confers a presumption of the right to the thing possessed, and the burden of the proof to the contrary lay on the contestant. Proof adduced, then the contestant obtains the thing in litigation, but no more than that. Generally the Roman and the Babylonian Codes are characterized by harshness and over-severity; fines are constantly accompanying the sword of justice, and this is a usual feature of a legislation enacted by conquest and with a view of perpetuating it; the vast majority, if not all, of the Decemvirs framing it, was patrician and originally all of the Senate. The Mosaic Code, intended for one united, assimilated and homogeneous people, is therefore infinitely milder than the first; justice is tempered with mercy, aiming at perpetuating a peaceful democracy, not a military aristocracy as Rome and Babylon were. So we find that Ovid (*Metamorphoses* I., III., v. 92) alludes thus to the Twelve Tables of the Capitol:¹ "First came the golden age, no avenger was needed; without law, right and faith were practiced; tears and punishments were absent; nor were threatening words engraved on brass to be read."

The law ever holds up a menacing sword. So were the XII Tables and so the Code of Hammurabi, as seen above. No less stringent is the Mosaic Code. But it shows also the Deity as abounding in pity and sympathy: "God reigns on high and benignly looks down upon the widow and orphan." "If you oppress them, and they will cry unto me, I am merciful, and I shall kill you by the sword of war and make your wives widows and your children orphans!" Here is God both the sword of justice and the heart of pity, and the law, too, is justice and vengeance to the wrong-doer, humanity and charity to the weak and the innocent.

¹*Nec verba minæ fixo ære legebantur.*

CHAPTER VIII.

The Bible and Babylonia; Professor Sayce.

Dr. A. H. Sayce, Professor of Assyriology etc at the University of Oxford, England, has recently (in 1902) published an important work on the results of the discoveries in Egypt and Babylonia. The work is denominated: "The Religions of Ancient Egypt and Babylonia," treating of their possible influence on Bible and Gospel, a theme in striking connection with ours here, the Mosaic laws with their analogies and contrasts elsewhere.

Professor A. H. Sayce needs no introduction to serious readers. He bears one of the very foremost literary names, and stands in the forefront among the masters of the Oriental science since the latter half of the nineteenth century, a writer of nearly forty years' standing.¹ He is equipped with the learning and the experience of the age; an original thinker, a propagator and a contributor to science, of a race of men exceedingly rare at all times. There is and was ever no lack of so-called "authors," dilettante in learning, devoid of originality, who never had a rational thought of their own, who never digested and comprehended the little they have read, who live on copying, plagiarism and commonplace, reckoning upon the indulgence of the reader. Of another stamp is Professor Sayce; he belongs to the small minority of conscientious savants, who never undertake to write but after wide and careful study, assiduous meditation and gradual arrival at solid and clear results, opening new vistas and new starting points for further research. Nearly every page of his work is telling, full of facts and fraught with important conclusions. There are everywhere "scholars" who remind one of the Oriental proverb: "A copper coin in a clay jar rings loudly."² Professor Sayce, on the contrary, is "a well-filled gold purse, silent, modest and dignified," or "A well-ce-

¹In 1902.

²איסתר בלנינה קיש קיש קריא

mented cistern, freshly preserving its water and never losing a drop" (Aboth).

In this book he offers us a clue and an analysis of the ethics, the religions, the rites, the temples, the worship, views, doctrines, habits and feelings of the ancient Egyptians and Babylonians, with a host of interesting parallelisms and striking contrasts between them and us, between then and now. He, moreover, shows their concepts and thoughts as not having died out and disappeared, but rather as having fructified and invigorated in our modern soil; that after having passed through the crucible of centuries of time and continents of space, we find them renovated and essentially identical, though with other names and paraphernalia, in our own philosophy, creeds, churches, societies, folklore and private opinions. He concludes that the ancient Egyptians and their ethical ideas are the forerunners of Christianity and the New Testament; whilst the ancient Babylonians' ethical ideas are the lower stage and modest antecedents of Mo-saism and the Old Testament. I cannot everywhere coincide with him and shall often offer my respectful veto. Still, I admire his fine, reverential tact and moderation, for just here is prominent and salient his uncommon common sense and his high sense of justice and propriety, refusing the smoke of glory and notoriety which, as others, he could have acquired cheaply. He will not tell you that Jesus, Peter or Paul have committed plagiarism upon Egyptian kings and hierophants; nor that Moses, Isaiah or Hillel have copied and borrowed from Sargon of Accad or Hammurabi of Babylon, or Ea of Eridu. You will never detect that veteran scholar and critic in such puerile perpetrations, becoming an audacious dilettante, not a serious thinker. For Professor Sayce well knows the great intellectual law of continuity of thought, as that of gravitation is in physics, the law of the indestructibility of mind, as that of force; that, happily for human advance, the chain of great ideas is never broken off and definitely interrupted; that one brain-worker evolves, from long experiences and after careful meditation, a new idea, an additional thought-limb, the result of an interminable chain

of reasonings, inaugurated thousands of years before him, and leaves; and another thinker resumes the thread left by him; he smoothens it, corrects it, spins it out a little further, and adds a new atom, a further link to the previous line of truth; just as the bees build their hives, adding particles of wax and honey to other particles, previously accumulated. This means the law of intellectual evolution. It happens, too, sometimes, that it develops backward, the wrong way; but soon it is straightened out and develops progressively; until, at last, after centuries and millennia, we find something apparently new, startling, different from, wonderfully transformed and improved upon its pattern, its original; nevertheless, on careful examination, we distinctly recognize the rudiments, the first rings, the incipient seed, still latent in its surprisingly new form; be that a race, a church, a society, an institution, a system, which had existed thousands of years ago under other names, symbols and auspices. In such a way Professor Sayce shows that the ancient religion of the Egyptians underlies that of today's Christianity, and that the ancient Babylonian ideas, institutions and philosophems are the necessary previous links of the Mosaic institutions, rites and doctrines. But, mind it well, Professor Sayce does not claim that either Sinai or Nazareth, either Moses, David, Ezra or Jesus were counterfeiters, imitators and copyists. No; he hints that by the law of continuity of thought, as the well-known principle of the indestructibility of force, the grand and sublime ideas and concepts about God, Providence, soul, duty, right and goodness, half surmised and entertained in ancient Egypt and Babylonia, irradiated to Sinai, Sichem, Shilo and Moriah, later to Alexandria and Jerusalem, then to Tiberias, Antiochia, Athens etc.; that there they were ever more elaborated and refined, and promulgated at last as the Decalogue to Israel, as the Sermon on the Mount to Christendom, as the Old or the New Testament, as the system of Judaism, of Christianity; and that nearly the same relation which exists now between these two latter doctrines is, in rudiment, to be detected in the two ancient religions of Egypt and of Babylonia. That is the net re-

sult of Professor Sayce's investigations elaborated in his highly interesting, fascinating work.

Now, no doubt, that is not the usual popular way of understanding the Gospel or the Bible, literal inspiration, revelation and prophecy. But we must not forget that Professor Sayce does not speak here *ex-cathedra* and as a theologian. He studies here history, archæology, philosophy, development of religions, and ethical ideas; and the method he suggests to ripe-thinking students is surely not unworthy of Providence or human genius: That our great salutary world-truths are inspirations of the divine mind elaborated in the human mind, is acceptable to both rationalists and spiritualists, and not derogatory to the Bible.¹

REVELATION AND INSPIRATION.

But one will ask: If the speculations of Babylonia have evolved the Ten Commandments, monotheism and *Ihvh*-worship, and the creeds of Egypt have developed into Christianity, morality and hereafter, what shall become of our own faith and doctrines of revelation, of inspiration, of prophecy? What of our pious traditions that Moses but held the pen and that he was dictated to by "the mouth of God"? What shall become of the belief that the founders of Christianity, too, and the writers of the Gospels were divinely inspired? Are these lessons of piety from early childhood mere nursery tales? In reply to this, the Professor hints: No, they are no fables, if correctly understood and intelligently interpreted in proper terms for adult mature age. The Sunday-school is to teach children; whilst higher religion and philosophy teach grown men and woman. They speak to their reason and heart, not to their fancy and naive love of the marvelous; hence the difference, difference in language and form, not in fact and essence. The discrepancy is merely, simply in words. The instructor of adults speaks in clearer words and more lucid syllogisms. So the catechism told us: God spake to Moses and Israel: Do right! Reasoned, adult religion tells: God inspired to Moses: Do right!

¹See, on kindred thoughts and concepts, Maimonides *Zeraim*, 8 chapters, introduction.

Now consider: The Bible teaches and insists in a hundred places that God is pure spirit, without any alloy of corporeality, without limbs and bodily organs. Whilst, you see, you and I speak, viz, by our apparatus of chest, throat, larynx, tongue, breath etc. Shall we assume that God spoke exactly in the same bodily manner to Moses as I do to you? Then God must have a body, with chest, lungs, tongue, teeth—then, you and I are idolators, not Biblical believers! The Pentateuch repeats again and again: "Remember thou hast seen on Mount Horeb no figure and no image, nothing but a voice thou didst hear" . . . The orthodox Talmud assumed "that a specially created, divine voice uttered the Ten Commandments." That means that God did not (bodily) by mouth, deliver his teachings, but he did spiritually; he inspired them to Moses and the Prophets. That means that the divine, eternal Spirit breathed them into the human spirit; the divine Reason reflected his light-rays upon the human reason; God, the Ocean of Being and Light and Truth, sent out a flash of his light into the soul of Moses and the prophets, revealing to them the truths most important for mankind; truths on right, reason, love and virtue. This is the "divine voice" alluded to by the Holy Writ and the Rabbis; claimed by the Gospel, the world's teachers and philosophers; invoked by the priests of Egypt and of Babylonia. That voice of divine truth has been sounding on Sinai to Moses, and from other mounts to other teachers. Mohammed, Zoroaster, Manu, Menes, Buddha etc., each had his sacred mount of revelation, for, indeed, not the market or the lowly house or valley, but on the lofty mountain-peak, the divine voice sounds, and ever sounds, to him who is prepared to hear. The same divine voice announced "that there is but one God, of reason, justice and goodness . . . Thou shalt not murder, steal, covet" etc. That voice has been resounding since man began to think to this day. But, first, it was totally misunderstood, then half-understood, and gradually, with Moses, Isaiah, Ezra, in the Jewish camp; with Nazareth, Peter and Paul in the Christian camp; with Mohammed, Abubeker and Ali in the Orient, it became clearer and

Fluegel's "Humanity, Benevolence and Charity of the Pentateuch."

brighter and louder, and taught distinctly religion united to morality, love and reason; taught that there is but one God, in spirit, in eternity, who insists upon duty and reason, purity and modesty, upon: "Love thy neighbor as thyself;" upon: "Ye shall be holy, for holy is your God;" upon: "Do not unto thy neighbor what thou wouldst not him do unto thee;" and finally: "Do unto thy neighbor what thou wouldst like him to do unto thee." Now, this "inspiration," "revelation," or "divine voice" calling on men: "Be holy, for God is holy," that has at all times been sounding, even before Abraham and Noah, to every human conscience and reason,¹ but more or less clear and bright; until at last, on Mount Sinai, for the Jew; on Mount Olivet, for the Christian, and at Medina, for the Mussulman, it taught the higher religion, that of the purest morality and truth. And that gradual unfolding of great truths of purity, wisdom and goodness, that is called in modern language development, evolution, the slow revelations of God through conscience, history, experience and reason. While in the language of the Sunday-school, of childhood, it is termed verbal inspiration, divine prophecy. God reveals his truths by slow, historical development. They are really identical, the one class of terms only befits man's riper reason; the other, the juvenile fancy and the nursery. This is the theory and the morale of the "Religions of Ancient Egypt and Babylonia," as expounded and interpreted by Professor Sayce. It goes to say that: The divine thread of ethical thought spun in the far-away East, in India, China, Persia, Babylonia, Egypt, was resumed and continued in Arabia and Judæa, in the regions of Sinai, Horeb, Shiloh, Karmel and Moriah, and there it revealed itself in the Decalogue and the Mosaic Legislation. It radiated its light to the Occident and to the Orient, sometimes brighter and sometimes darker, according to the genius of its special exponent

¹ I. M., 4.10-15, and 26 etc., shows that God, conscience and justice were revealed to the human race long before Sinai and the Patriarchs. The Pentateuch is far from chauvinistic. The prophets even gave their audiences astounding bits of truths, dissimilar to our modern preachers expecting a re-election.

and the caliber of the nation to which he administered. This is the logical and ethical outcome of Professor Sayce's researches.

And here is not the least derogation to the great place and import of religion in the human sphere, nor any disrespect to the authority of Scripture and the divine voice proclaiming it. The import of the religion of the Decalogue and of morality lies in these latter themselves, in their intrinsic value. Analyze the ten words of Horeb, and you cannot help recognize in them the divine seal of eternal truth; and the fact of showing that they had already dawned in the minds of other than Judæan or Galilean sages, and even thousands of years earlier, would not in the least detract from their sterling worth. Nay, it would render them even more illustrious and important. A diamond is a precious gem, not because it is set in a gold case or because it is recognized in such a place and worn by such a queen or king, but because it is being valued in all places and ages and by all persons appreciating its brilliancy, beauty and endurance. To extract the essence of ethics, law and divinity, of human salvation, duty and morality; to compress and express these in a few grand verses; to promulgate them on a most solemn occasion and place; to deliver them to an entire people, prepared for that important inauguration; to declare that to be a pact, an organic law, the national constitution, the rule of conduct for ever and aye; to succeed therein after a struggle of fifteen centuries; then after another struggle of 2,000 years to make that same doctrine the universal standard of conduct for the Occident and for the Orient; to such an extent that a civilized society without that organic law is impossible, unthinkable—that is the wonder of history, the admiration of ages, the import and the significance of Mosaism and the Decalogue. It is the highest development of the leading ideas delivered by the divine voice to human conscience and reason, from the beginning of time to this day, and can lead only to higher, further and nobler schemes of human perfection and happiness. This is the aspect of the rational conception of divine revelation and inspiration. The local, narrow Sunday-school lesson is broad-

ened and expanded to a world-teaching. This is not shrinking and belittling religion, but rendering it world-vast, the proper atmosphere of the divine.

As the biologists, anatomists and physiologists trace the structure and the capacity of the human body, and even of the mind, throughout the entire animal kingdom, finding the rudiments of the human species distinctly foreshadowed and outlined in the animality of the lower and the lowest scale; ever developing, unfolding and brightening to higher forms and nobler functions, repeating and describing the same pattern on new cycles of creation, but each cycle higher than the preceding one, until gradually it reaches the structure of man and his wonderful brain, the shell of his mind, measuring the height of the stars and scanning the mysteries of Deity—and none but fools finding this derogatory to divine and human dignity; even so is there no derogation, no belittling and no desecration to assume that God reveals his truths to man through his conscience, his intelligence, his history, in developments revealed to great minds, as the different historical stages and mile posts of human improvement. This mode is even indicated distinctly in the Pentateuch itself: Adam, Noah, Abraham, Moses, Eliahu, Isaiah, Ezra, Maccabeus, in Jewish history, what else are they but such stages and mile posts? And these are resumed and continued in universal history, as the several initiators of Christianity, of Mohammedanism, of Protestantism, of liberalism, down to Luther, Melancthon, Lessing, Kant, Mirabeau. This is the outcome of the chain of reasonings of Prof. A. H. Sayce, in his account of the vast results of his investigations into the partly deciphered traditions of the religions and the culture of ancient Egypt and Babylonia, here reviewed from a mere bird's-eye view. We shall give the reader some literal extracts of his book for verification. But first let us see by way of contrast the following on the same subject-matter.

PROF. DELITZSCH'S BABEL-BIBLE CONTROVERSY.

The above survey and analysis covers fully and entirely a controversy, more noisy than substantial, of late raised by a Profes-

sor of Assyriology at the University of Berlin in his lectures there.¹ These lectures have little or no other sources and background than the material treated by the Oxford Professor's book just reviewed. I do not believe that the Berlin Professor has deciphered or read a single cuneiform tablet not at the disposal of the Oxford Professor. But the latter treated his subject-matter with wisdom, tact and moderation, and therefore he did not come to the sensational conclusions of the former, that the Decalogue, Monotheism, the Sabbath and, generally, the Mosaic Laws are a mere plagiarism committed upon Hammurabi's code. *Est modus in rebus* of an infinitely higher order. All that code may show is, that Babylonia may possibly be the background of Judæa, but the Judæan laws are and remain initiatory, creative developments, of higher and purer inspirations, suggestions of divine genius, the dawn of which may be traced back to earlier stages of civilization. The Mosaic institutions may contain embryonic elements, gathered from previous legislative structures, collected, sifted and shaped, purified, polished and grandly enlarged with originality and spontaneity, formed into a body of laws, and handed over to mankind as rules of conduct, as "laws and statutes which man should realize and live by them." That is what criticism can claim, and nothing beyond that. Exactly the same material and no more and no other documents the Berlin Professor has used, and still he boldly declared the God-idea, Decalogue, Sabbath etc., the bases of the present society, to be borrowed from Babylonia! Whilst we have seen it proven by the theory of ethical and mental continuity as the "divine voice" of Supreme Mind, sounding throughout the æons of time and through the space of the world, and inspiring all the leading geniuses of mankind with salutary laws and institutions. What different conclusions from identical premises!

Let me be plain: I have carefully studied those much-talked-about Laws of Hammurabi engraved on the Stela found at Susa, earlier placed at Babylon, at Sippira etc. After reading through those 282 paragraphs I have not found there any mate-

¹Professor Friedrich Delitzsch, "Babel and Bible," 1902, Leipzig.

rial for either Monotheism, the Decalogue, nor Leviticus, 19.; no material for religion, ethics or charity; not a trace is there of the Sabbath, the Mosaic equality, the liberal, agrarian, benevolent or free, social laws; nothing of the Mosaic democracy, freedom, justice, purity, virtue, mercy and morality. That Code is all and ever polytheistic, superstitious, cruel and harsh, savoring of Canaan, its despotism and foreign conquest; anxious to establish order, commerce, industry, wealth—for the classes; not the freedom, morality and well-being of the masses. With an iron hand it suppresses mutiny and rebellion; punishing, all alike, as Draco, small and great crimes and petty misdemeanors, by fire, iron and water, with cruel ordeals and outright death. There are there very few points of matters of fact reminding one of the Pentateuch. A little more analogy you may find with Rabbinical tradition. All you may discover is a certain background, of similar, neighborly views, customs, peoples and countries, Canaan and Babylon, presupposing just these abominations, abhorred and warned against by the composers of the Sacred Writ. The similarity of and the distance between Hammurabi's Code and the Mosaic one is about the same as that between a shrewd, plucky barbarian and a refined, moral gentleman; there are also analogies, incontestably—as between a monkey and a man! By far more parallels, mostly outward and formal, Professor Sayce shows up. Still, he does not charge the Mosaic Code with plagiarism. Such parallelisms are to be found in the outward forms of the temples, institutions, priesthoods, tithes, sacrifices in Babylonia and Judæa. But he, as Professors Maspero, Hommel, Zimmern and others, acknowledges that the spirit is vastly different; the intellectual, theological and moral caliber of Judæa is infinitely superior to Babylonia. Some more analogies of this latter sort, Professor Sayce claims, may be found in Egypt. There the moral element is much stronger than in Babylonia, and there religion is already more permeated with ethics. Still, it holds out no fair comparison with the Sinaic doctrines and the Mosaic institutions. The One God, in spirit, time and space, making for holi-

ness¹ and all the vast consequences thereof, are lacking there. Attempts at such a step were made in the Nile country, possibly on the Euphrates also, but abortive attempts they were. It had not enough of the pure, stern, prophetic element of Judæa. Whilst the populations sided with the local, racial, established priesthoods, polytheism and the facile, sensuous ethics of each nome and temple. That simple, salient, grand fact of Christianity and Mohammedanism hailing from Judæa, not Egypt or Babylonia, proves conclusively that Judæa, not they, possessed the mettle and the ferment to revolutionize the world, that "from Zion issues the Law, and the Word of God from Jerusalem." I cannot conceive why they just hit upon the Hammurabian² Code, by no means the earliest, as the original of the Mosaic one, except on the score of a sensation, or as a crude piece of fresh Anti-Semitism. The claim that "the Old Testament should yield its place to Babylon's doctrines" is preposterous and ridiculous.

And now comes the comical part, the climax, of the huge joke: The Berlin Professor, having put up that monstrous and unscientific hypothesis, is roughly reminded by imperial³ and by popular murmurings that, on disestablishing the Old Testament, he has profoundly shaken and shattered the New Testament, its superstructure, also. So he composes his face and quotes single prophetic passages, torn from their context, where those fiery denunciations of vice, oppression and shams upbraid the neighboring corruptions of Edom, Moab, Babylon etc. "Truly," says Professor Delitzsch, "that is a battle song, Bedawin-like, in thought, style and word . . . These and hundreds of other like, prophetic passages are full of hatred against all other nations . . . I take rather my refuge with him, who, living and dying, taught: Bless them that curse you, and flee to God, to whom Jesus taught us to pray . . . God, the living father of all." But the Professor forgot that this God is the God of the Old and

¹III. M., 19.2.

²Hammurabi's Code had its predecessors, surely.

³The German Emperor.

of the New Testament, not of Babylon, not of India or Hammurabi; that the God of Jesus is the God of Israel; he forgot also that Jesus was no more sparing of the corruptions and hypocrisies of his times and his neighbors than was Joel, Isaiah, Jeremiah. Either of that school of prophets burned up with divine ire against the vices, wiles and shams at home, just as at Tyre and Babylon, whilst at the same time they were brimful and overflowing with the sympathy and serene humanity pervading the Mosaic Code. The Berlin Professor plays fast in Theology as in Archæology!

I have not seen the full and genuine lectures and arguments of the Berlin Professor, nor do I know whether he has not just yesterday discovered some new cuneiform Stela or tablet which is the exact original of the Decalogue or of the 19th chapter of Leviticus. If he has made such a find, let him produce it promptly. He owes it to himself and to the frowning manes of his good and noble father.¹ The burden of such a proof lies on him. I, for one, do not believe that such a Stela has been discovered, or will ever be. No, the times, the places, the populations, the ethical and social needs, the leading factors, the entire environments of the epoch of Hammurabi are vastly different from those of the Exodus, the prophets or Ezra.

No doubt, the sound intellectual and ethical material of pre-Abrahamic times has not been thrown away. No doubt, that the best of that has been preserved and utilized in the great religious creations of later and of more recent ages; because, as seen, there is uninterrupted continuity of human thought, nurtured and suggested by divine thought, inspiration or revelation. But this does not warrant even the shadow of a claim that

¹With whom I had the honor to be on very cordial terms and for many years in frequent correspondence. The late Franz Delitzsch was a great scholar and a good man, with but one weak point: He ardently desired the conversion—not the humiliation—of Israel, “that Israel may assist in amending certain of Christianity’s Nicæan doctrines.” “A sacred task which the Biblical people does perform, and best outside than inside of its surrounding majorities,” was my respectful reply to him, now 22 years ago, in Leipzig. But we have it now to do with Professor Delitzsch, the son and his claim, not the venerable father.

the Decalogue, Monotheism, the Sabbath and entire Mosaism are an imitation, a copy from some Babylonian king or statute-book. For Babylonian laws could not possibly suit Judæa, because each people, race, age, country and society require their own legislation. Indeed, the Pentateuch warns and forewarns, again and again, its people from imitating surrounding, heathen institutions and customs, ideas and ways; and now Professor Delitzsch (the younger, of course) pretends that the very best Mosaic doctrines and leading institutions are borrowed and copied from Babylonia? That is preposterous! Nor must we forget the distance that exists between ideas uttered by single sages or philosophical priests, and laws enacted by rulers and legislators. We find in Egypt and in Babylon good and noble thoughts, on the highest topics of State, religion and morality, uttered by single men of genius; whilst practical, public institutions and laws are mostly time-honored, hoary, venerable customs, gradually legalized; they must root in the masses, be at their level, and cannot be transferred to another people diametrically opposed, as was that of Judæa to Babylonia. I therefore dare affirm and say that the Mosaic doctrines and legislation are rather in salient, deliberate contrast and conscious, intentional opposition, than a slavish imitation and borrowing from the one-sided, harsh, polytheistic, Hammurabian Code. Occasionally we may find there a certain parallelism; as a whole they are each other's reverse. Again let us remember that, utilizing the old and evolving the new, breaking up and readapting previous institutions to new surroundings, this picking out of useful, approved, old elements and blending them with new material suitable to the new environments, this decomposition and recomposition, this is not plagiarism, this we may retrace in each or most of legislations, this ever went on, on the mentioned principle of continuity of thought. The good old elements are utilized, the effete ones are removed, the new is added and all made up into one new structure. This independent renovation, adaption, this just constitutes originality, creation, divine genius.

Fluegel's "Humanity, Benevolence and Charity of the Pentateuch."

I trust that the Berlin Professor will reconsider, agree with and assent to the earnest reasonings here unfolded, showing: That, in spite of many good elements, glimpses of noble, general, religious and moral ideas, Babylonia was, on the whole, steeped in the superstitions, the cruelties, the despotism and the filthy practices of Asiatic polytheism; that Anu, Bel, Mero-dach, Istar, Adad-Nebo, Asari and Ea were not the compeers of Iahv-Elohim, even of the El-Elyon of Abraham; far less could they compare in holiness, morality, benevolence and wisdom to the majesty of Iahv and his laws. I trust that the Berlin Professor, upon re-examining the Stela of Hammurabi etc., will come to the conclusion that Monotheism, the Decalogue, the Sabbath as a day of sanctification, not of jollification, the Year of Release and of Jubilee, as the epochs of restoration and reintegration; that freedom, mercy, justice and human equality, as the bases of law; that solidarity, charity and humanity, love thy neighbor as thyself—as the social base; that “Holy shall ye be, as your God is holy,” to be the aim of morality—all that the Berlin Professor will agree with Professor Sayce, Maspero and the cordial writer of these pages, to be originally and saliently Mosaic, Biblical, the sequel indeed of former, prehistorical periods, but the higher development from earlier, by far inferior, ethical schemes and institutions.

Now, one would say: But in my Sunday-school I have heard about “thunder, hailstorm and brimstone, about trumpets and earthquakes and God speaking in person” etc.; must I forego all that? The answer is: You must reconstruct that, you must understand this as a man, not as a child, and that will render you both more wise and more religious. The Pentateuch deprecates any bodily divine revelation; the Rabbis assume a divine voice on Horeb. They everywhere repudiate miracles as a necessary proof for truth.¹ The great Jewish philosophers all, the Gabirols, Albos, Saadias, Maimonides, Iben Ezras etc. plainly hint “that the angel between the Deity and man is reason and conscience.” Good and great men are inspired, inhaling breath

¹See Maimonides, Introduction to Seder Zeraim כל המון מדמים שהנביאה לא תתקיים עד עשותו אות, מיפנא כטו אליהו

from the very Fountain of wisdom. Revelation goes on by the mode of historical development, from mind to mind; wise and holy minds are the vehicles of divine teachings to mankind. They go all in line, continue the same divine thought, take up the identical divine thread, continue it, for a while, a few inches farther, and hand it over to their successors. They are the sacred phalanx, the vehicles of providential instructions, forming the great stations of human advance in science, in religion, civilization and happiness. Each of them takes up the thread of that eternal, historic revelation, spins it on, and, dying, hands it over to his heir in spirit, dropping on him the Elijah-cloak and disappearing in the roseate sky of immortality. Whilst mankind admires, looks up and calls aloud: "Father, father, chariot of Israel, vanguard of mankind!" (II Kings, 2.14.)

"The Thora speaks in human language," said the Rabbis, just in reply to such popular questions. Reflect, as children we used to ride on a stick; later on we rode on horseback; now by steam and electricity; possibly soon we may ride by balloon; "Everything has its proper season," says Ecclesiastes.

PROFESSOR SAYCE CONTINUED. MERODACH, EA.

We have in part surveyed the important work of the Oxford Professor, and at the same time examined the unwarranted affirmations and the noisy controversy about Babel-Bible of the Berlin Professor. We have until now had Professor Sayce speak by our mouth, as passed through our own prism. We shall now more clearly follow up the results of his research, and then quote him in his own words, in order to give the reader an opportunity of judging by himself what he thinks about the influence of Egypt and Babylonia on the Pentateuch, of the highest importance for the position of the Biblical religions.

Professor Sayce finds many parallels in the political, social, mental and spiritual activities of Babylonia and of Judæa; in their doctrines, views, institutions, holidays and worship; in their theocracy, priesthoods, temples, symbols, sacred outfits and utensils. As the Jerusalemite Temple, so the great Babylonian one of Marduk or Merodach had two courts, two symbolic pil-

lars at its front entrance; a basin termed "Sea" resting upon twelve brass oxen, for the purification of the priests, one altar of sacrifice and another for incense. The temple proper was divided into a holy place and a holy of holies. It contained a mercy-seat, a chandelier, a table with 12 shewbread, a Parukah or curtain. It had prophets, priests, tithes, sacrifices; it knew also the sacred "kippur" and "qorban" terms. But its contrasts to the Moriah-Mount were by far greater than its similarities: It had its sacred vestals and sacred prostitution, a hundred gods, male and female, and all the idolatrous and grossly sensuous paraphernalia ejected from Mosaism and the Moriah Temple. The victorious royalty and the sacerdotal caste of Canaan-Babylonia succeeded partially in subordinating all the leading gods of Nippur, Lagas, Eridu, Sippara etc., under the supremacy of their own god, Bel-Merodach, giving him the role of the El-Elyon of Abraham. Nay, they even made an attempt at monotheism, by conferring on Merodach all the names, attributes and functions of the chief gods of Babylonia and Chaldea. Merodach was identified with Bel, Istar Anu, Ea, Asari and the other great gods and goddesses of their pantheon. All their titles and powers were transferred to him, he absorbed and subsumed them all. He was in prayer and worship addressed, and in some hymns expressly designated as the Only One, the Supreme, the Creator of the universe and the gods. He ruled, at the side of king-craft and priestcraft, hypocrisy, licentiousness and necromancy, abominated and ejected by Mosaism. Merodach was at last fully identified with Asari and his father, Ea, of Eridu. But Monotheism would thrive in Babylonia as little as in Egypt. Earlier, Ea was conceived as the Creator, Friend and Teacher of man; as the Greek Prometheus, a potter who had formed man out of clay, had shaped him in his own image, civilized him, given him laws and taught him the useful arts. Ea was the god of the deep, who had come from abroad, the west of Arabia, the western shore of the Euphrates, Ur of Chaldea (the birthplace of Abraham?), who daily appeared with his ship, emerged from the Persian Gulf at Eridu, to teach man and improve him. Eridu was the first

land rescued from the original abyss, the dreary swamps of the sea. Eridu is claimed by Professor A. H. Sayce¹ to be "an abbreviation of Eridug or Eri-dugga, 'the good city,' in Sumerian." But it may remind also of the Hebrew, *erez*, earth, Erde, terra, tarra. It is the crude, mythic version and background of Genesis, 1.2: "The earth was chaotic and confused, darkness was upon the abyss and the Divine Spirit was hovering on the waters." Remember, again, *Ihvh* is also termed in the Bible *Ih*, *Iha* and *Eheieh*. II M., 3.14, reads: "*Eheieh*, or *Ehih* sent me to you." Isaiah, 26.4, reads: "For *Iha*, *Ihvh*, is the rock of eternity" (worlds). Further, *Ihvh* is described in Genesis, 2.7, as the moulder or potter of man, and in Jeremiah, 10.15, as the *Yozer*, (clay)-moulder, of all.² Many divine attributes given in the Pentateuch to God were in Eridu lavished on *Ea*. Whilst the moon-god, Sin, has no analogy whatever with *Ihvh*, whose identity is claimed by some critics. Thus an effort was made to invest in Babylonia Merodach with divine unity. Possibly in Southern Chaldea it was *Ea* who assumed that honor of subsuming the leading world-powers, and for a time, more successful, was termed *Ea* the god, or the gods (Elohim). Again, Merodach, identified as Bel-Merodach-Ea, was assumed by the Babylonians as that supreme, leading Deity. Hence we may surmise that attempts at Monotheism had taken place there.

EA, IH, EHIH, CONTINUED.

Let us elucidate this highly interesting point, though seemingly dry archæology and metaphysics. The layman may skip it, but it will pay the student to read it twice. It will clear up many a puzzle. We may fairly and justly assume that a movement towards Monotheism was going on in the civilized part of the ancient world, perhaps since the advent of Abraham, or his double, Zarathustra, and the Highest-God or El-Elyon-idea. We see the Babylonian priests, as

¹In a letter to me.

כי יוצר הכל הוא—ויצר י'ה את האדם—כי ביה י'ה צור עוקמים—אהיה שלחני אליכם

the Egyptian Pharaoh, Khu-n-Aten,¹ made an effort to identify their own deity with the chief-gods of Mesopotamia; but they did not succeed, just as little as did the King of Egypt. The priesthood of each nome and province in either country claimed this privilege for their own local god. Now it is probable that the same effort was made in Eridu to have Ea assume that part, as the El-Elyon, the Supreme of Chaldea, with all the powers and attributes of the chief Babylonian gods, he to subsume and subordinate them all. But this trial miscarried in Chaldea with Ea, just as that of Osiris in Egypt and Merodach in Babylon. It was more successful with Moses and Israel, because there the rudiments of Monotheism lingered still since Abraham and the other Patriarchs. There it was consummated in the concept of *Ihvh-Elohim*, purporting that the many gods or divine powers of the pagan nations were all subsumed and superseded by the Only One God, *Ihvh*. The Babylonian *Ea* may be but the corrupt pronunciation of the Hebraic *Ihvh-Ehîh*. Only here it has a rational sense; it combines in its small compass both Being and Eternity, existence in past, present and future, occupying in its spirituality the eternity of time and of space; an admirable generic designation of the Supreme Being holding in the lap matter, time, space and eternity; this Being is alone *Elohim*; *Ihvh* is *Elohim*. It is all in vowels, without any alloy of consonants, viz, it is purely spiritual, all-embracing eternity. After a long struggle the Monotheistic idea was thence transplanted to Arabia and Judæa. In Judæa the struggle against polytheism lasted nearly a thousand years. With Ezra and Nehemiah only idolatry was finally eliminated, and pure, rigorous Monotheism, with the Mosaic Law, became the norm. Monotheism, the *Ihvh*-religion, having gained there a firm foothold, was carried back to Chaldea as *Ea*-religion, the moulder, teacher, friend and lawgiver of man and the Creator of all. Thus is *Ea* of Eridu, the pale reflection of *Ihvh-Ih-Ehîh* of Arabia and Judæa. *Ihvh* and Monotheism did not originate in Babylonia, and

¹See Sayce, "Religion of Egypt," p. 114-35, "Amen-Hotep, IV.

istence, Essence of All, Being Undifferentiated, the Creative Essence and Cause, containing the germs, principles, forces and vitality of all the later differentiated, single beings of the universe. "Existence," "Being," is the first correct definition of *Ihvh*. The next is but a logical amplification thereof. The Rabbis as correctly derive, etymologically, the word *Ihvh* from *hvh*, *ihvh*, a compound-word, denoting past-present-future. Thus *Ihvh* is the Being, Undifferentiated, Existence, the Essence and reality of all that pervades eternity, past, present and future. Again, *Ihvh* occupies likewise the infinity of space: He is the space, the room, the occasion and the cause of the universe. *Ihvh* is the Essence of existence in the eternity of time and the infinity of space. As such the Rabbis call the Deity, Place, Space, *Maqom*. They call him also *Shamaim*, the heavens or world-room; both are well-known names of the Only One Deity in the Talmud and the Medrashim. They are attributive names, divine, metaphorical epithets; for actual names the Deity has none. *Ihvh*, or the abbreviated *Ih*, comes nearest as attribute to his ineffable Essence, the Being, the Ocean of Existence. It is designated as Place or Space of the Universe by *Maqom*, *Shamaim*; as Power, *Gaburh*; as love, *Rachmana*. The Deity is often also alluded to in the Bible as *Maon*, *Meona*, and as *Zur*, habitaculum, residence, refuge, rock, foundation; as the space, cause, providence and protector of the universe and its creatures.

The Supreme Being is again alluded to in Scripture as *Aloha-gedem*, God of the East, or of antiquity, the One professed and adored of Old in the East, later supplanted and forgotten, and at last reintroduced by Moses as the God of the Hebraic Patriarchs of Ur, on the western shore of the Euphrates, the seat of the Chaldean civilization. He is remembered as the "residence (protector) of antiquity," "shield of salvation," "Rock of the faithful," in the farewell address of the dying liberator (V M., 33.27). So the Psalmist (90.1) strikes up his hymn: "O Lord, a (protecting) residence thou hast been unto us from generation to generation."

When we examine these epithets, we shall find that we have sufficient historical data to verify them. In hoary antiquity, in the far-off East, we find the Deity described by the sages and thinkers, with these very same colors and attributes. The Supreme Deity is described in the Vedas, the Upanishads and the Vedanta as Brahman, The Being, Alone Self-Existent; and in the Sacred Books of Parseeism the Supreme is denominated as Zrvana Akarana, the Infinite in Time and Space. When we further discard the poetical tropes and the popular extravagances of the Greek and Roman poets, we find the Supreme Deity defined as the Reality and Essence of All, Infinite in Time and Space, just as Iahv-Elohim is in the Hebraic Scriptures. What, then, is the difference between the Mosaic and the non-Mosaic God-conception? It is this: With the Hindu, Parsee and Greek sages, the Only One, Supreme Deity was recognized and admitted, in secret, in theory, but veiled, even neglected and admitted, in secret, in theory, but veiled, even neglected and overlooked in practice and publicly. The sages had one God-idea, the masses had various other God-ideas. The people cared little for such an abstruse, incomprehensible, ineffable Supreme One, out of its grasp and transcending its experiences. His attributes, therefore, were popularly materialized, personified, individualized and assumed as single, concrete, independent divine beings, much nearer to the human senses, and these were symbolically represented as deities. Hence came polytheism with idolatry.¹ So was Baal and Ashtoreth in Phœnicia and Canaan; Bel or Mardukh in Babylonia; Assur in Assyria; Ammon-Ra, later Osiris, and Serapis (Osiris-Apis) in Egypt; Zeus, Diespiter and Jupiter² in the Greek and

¹Maimonides assumes that the heavenly bodies, sun, moon and stars were first idolized. This may have been so with the vulgar. The priests and learned appear rather to have personified all the natural phenomena and powers, and taught them as individualized attributes and gods. Such are the 10 Sephiroth of the Qabbala (see "Philosophy and Qabbala").

²Diespiter is often mentioned by Horace, identical with Jupiter or Zeus-pater; Zeus is derived from Deus, day, the light-god; possibly it is akin to Zebaoth, God of the Heavenly Hosts, Zeus, Zeos, Zebaoth. See Horace, Carminum, Liber III., II.: "Sæpa Diespiter neglectus incesta addidit integrum." The latin Jupiter, Jo-pater, is of same derivation.

Roman world. That represented God the Master, force, rigid law. Anu was the ether, the infinity of space, *Shamaim*; whilst Ea symbolized love, wisdom and goodness, the mercy-side in the godhead. So the Rabbis distinguish Ivh as love and Elohim as justice.¹ Thus in the Gentile world the attributes of the Only One Deity were broken asunder by the popular prism and worshiped as so many different deities. Mosaism alone succeeded, after a long struggle indeed, to unite again these scattered rays into one divine focus and to have that focus accepted by priest and layman, learned and people, openly declaring that Ivh only is Elohim, that in Him reside all the divine forces and that His chief attribute is Ivh, Ih, Ehih, the true ancient God of the Universe, of the East, of Antiquity, *Elohi-Qedem*, *El-Olam*. A dim, enfeebled ray of this pure monotheism elaborated in Arabia and in Judæa, wandered to Chaldea as the doctrine of Ea, and to Babylonia as that of Marduk, or Bel-Merodach-Ea.

In one word, the Hebraic monotheism, the *Ivh* or *Ih* religion, is not the theology of Babylonia transplanted to Judæa. No; it is the ancient religion of the East, for long there neglected and forgotten, then renovated in Arabia and Judæa by Abraham, Moses and Israel, there accepted as the State religion, and gradually reintroduced into Babylonia as the Bel-Merodach Cult; into Chaldea as Ea-Cult, and into Egypt as that of Khun-Aten or Amen-Hotep IV. The Egyptian Aten may well be identified with the Vendante Atman, the Self, Brahman, the Only One Being, and the Chaldean Ea has its best etymology in the Hebrew *Ehih*, *I-shall-be*, Eternity. Thus monotheism and Ivh are not inventions of Babylonia or Eridu, transplanted to Judæa as Mosaism. No; just the contrary. Monotheism and Ivh are gray, ancient conceptions, hailing from the far East, gradually obscured, neglected and forgotten there by the masses, on account of some wave of barbarism and war intervening; preserved only by some forlorn priest or philosopher of India, Egypt or Babylonia. But these doctrines found later a

¹Of the Agadists and mystics the two divine faces or aspects, that of justice and that of love.

stronger hold on Arabia, Judæa and Kanaan. There they were renovated, restored and delivered to Israel as the Mosaic doctrine of Monotheism and *Ihvh*, still claiming no innovation, but simple reintroduction.¹ Then, taking deep roots in its new home of Judæa, it redounded back to the East and South, Arabia, Babylonia, Chaldea, Egypt, as a feeble echo from a far-off past and from neighboring Judæa. The fact is that *Ea* has no meaning whatever; on the contrary, *Bel*, *Anu*, *Merodach* etc. have their root and sense in Semitic; whilst all the Biblical divine names have an attributive sense in Hebrew. Such is *Ih*, *Ihvh*, *Shadai*, *El*, *Elohim* etc.; hence is the Chaldean *Ea* an echo from Judæa, not vice versa. *Ea* is the weakened sound from Judæan *Ih*, *Ehiv*, *Ihvh*; it is to mean: Eternal Being, if monotheism had been established there, but it was not, so it remained a local god.

PROFESSOR SAYCE CONTINUED.

Let us return now to Professor Sayce's work. He does not jump at conclusions; he justly sees there but a weak and timid attempt, and an abortive attempt, to introduce monotheism, but of little avail. Some priestly philosophers could say what they pleased, the people remained unmoved; polytheism, witchcraft and rottenness remained intact. Perhaps it was but mere personal ambition of the new dynasty to advance itself by advancing its god, and under the guise of centralized monotheism to introduce centralized monarchical despotism. Everything remained as before. Maybe that caused Abraham's removal from there (Genesis, 12.1). Divine service consisted mostly in incantations and propitiations of the many gods. The priest continued to be less of a teacher than of a sorcerer and soothsayer. Religion consisted more in mystic practices than in virtuous deeds, enlightened thinking and noble meditation. The several priesthoods of the nomes and the divers masses and tribes, of different national origins and compositions, the several vassal-states of North and South Mesopotamia, its leading provinces and temples, had each their own supreme god with his hier-

¹II. M., 6.2-9.

archy. Each one claimed supremacy and had his own Enneads and Triads (nine and three gods united into one) with a host of subordinate gods and daimons, good and bad genii, and all these gods and goddesses were far from being, as the Biblical Iahv: "Holy, loving justice and truth, enthroned on high and looking down benignly upon the poor, the stranger, the widow and the oppressed." Even the chief God, Merodach, was but a human hero, a Heracles or Perseus, a giant fighting the monsters of the world-giant, *Tiamat*, symbolizing power, intelligence and order conquering Chaos and Confusion. Morodach, of the city of Marad (rebellion?), may, after all, be but the Biblical Nimrod, apotheosized; he who had made an end to social disorder and violence by establishing his dominion with law and order. Thus, Professor Sayce repeatedly remarks and concludes: That between the religion and the ethics of Jerusalem and those of Babylonia there was about the same difference as that between man and the ape. Man and ape have a great many things in common. Still the distance between them is immense, not only in degree, but in kind. Merodach, you see, plainly, is a myth, a composite fiction of the priests, exalting for their own benefit their own cult, temple and god above the others; purifying them indeed, still leaving enough alloy to show their origin in rank polytheism, astrology and mythology.

Otherwise is the Iahv-conception, the pure Mind, the Sublime Creator, the One, the Author of the Decalogue, the Holy God, who bids us: "Be holy, for holy am I;" who identifies religion with intelligence and virtue, who subsumes human duties under the grand social rule: "Thou shalt love thy neighbor as thyself;" placing practical religion and worship in purity, sympathy, justice and morality. Such a God-idea uplifts the Temple from a palace of priest and king to the sanctuary devoted to the culture of the holy, the perfect and the divine. That makes the priest an agent of the Deity, yea, his earthly associate,¹ for the propagation of the true and the good. That conceives Deity as father of Israel and of mankind; both are the object

¹ ליה'ק'ב'יה' שותף Agada and Qabbala and Vedanto.

of his solicitude; perfection and holiness is their common goal and the divine is, both, the origin and the last consummation of human improvement. "Between these two concepts"—says Professor Sayce (page 478)—"lies that deep gulf of difference which separates the religion of Israel and that of Babylonia, as a whole; the one is monotheistic, the other polytheistic." But I am not ready to agree with the Professor that "King Hammurabi was a contemporary of Abraham, that he is identical with the Biblical Amraphel (Genesis, 14.1), and that Babylonian law has influenced the Mosaic legislator." At the utmost the latter may have known it as existing in a neighboring country, and went in parallel with it in a few rare cases, but opposed it in vastly many more; since his aim, object and starting point were quite other ones than those of Hammurabi.

PROFESSOR A. H. SAYCE VERBATIM.

The Oxford Professor says (248): "One of the chief lessons of the past centuries is, that of continuity. Throughout the world of nature there is no break, no isolated link, in the long chain of antecedent and consequent; and still less is there in the world of thought. Development is but another name for the continuity which binds the past to the present with stronger fetters than that of destiny."

(259): "Long before Abraham, Canaan was a Babylonian province, obeying Babylonian laws, reading Babylonian books, and writing in Babylonian characters. With that went Babylonian culture and religion. Abraham was a Babylonian. The Mosaic Law shows clear evidence of that influence, as do the earlier chapters of Genesis."—Yes, but that influence is by way of contrast, rather than of assent. The Mosaic Genesis and the Mosaic Law, starting from monotheism, one holy god, and a free democracy, necessarily arrived at other conclusions, as the Professor soon and frankly admits.

Critics often forget stern facts, viz: We must not overlook that Abraham left Ur and Babylon and Haran just on account of the inferior civilization, the corruption of Mesopotamia. (Genesis, 12.1): "Go, go! away from thy country and thy birth-

place . . . There I shall make thee great and in thee shall all the nations of the earth be blessed." So we see there was here a braking away from Babylonian ways, not an imitation of them; a new principle with a new culture and new institutions! The earlier chapters of Genesis, too, distinctly prove this new phase of Abrahamic culture;¹ and so does the later Mosaic Law. Its basis is monotheism, its object is a free, moral people and its polity is democracy, not conquest, priestcraft, kingcraft and polytheism. Babylon and Judæa are far more contrasting than parallelizing each other, and the Lawgiver is ever warning his hearers: "Do not act as the surrounding nations, deeds which are the abomination of Iahv." Nevertheless, the Oriental civilization is the background of Judæa, since it was not everywhere rotten and in many respects worthy of imitation.

(261): "The god of Nippur was El-lil,² the lord of the ghost-world, dwelling beneath the earth or in the air, master of spells and incantations, to keep the evil spirits at bay and turn away their malice . . . Eridu, on the contrary, was the seat of the god of culture. Ea, whose home was in the deep, in the Persian Gulf, had here his temple. There he taught the elements of civilization, writing down for man laws, a moral code . . . that prevented disease and death. He was the author of the arts of life, all-wise, creating and benefiting man. He had made man, like a potter, out of clay; to him therefore man looked for guidance and help."

In Ea I find some traits worthy of the Deity. Hence we find also such features in the delineation of the God of Mosaism. Iahv-Elohim there is unique, creator, lawgiver, father of man, guiding, teaching, benefiting him, and warning him not to go in the ways of the *elohim*, the gods and the ways of Babylon, Nippur etc. The Mosaic Lawgiver ever has the abominations of Mesopotamia before his eyes and deprecates them as "abhorred and extirpated by Iahv."—Iahv is the very opposite of the Elilim of Nippur. I therefore ventured to suggest that

¹See my "Mosaic Genesis" and my "Biblical Patriarchs" on this.

²I prefer El-lil, night god, or little god, as Augustus and Augustulus, little Augustus; the Pentateuch often mentions these *Elilim*.

possibly the nobler Iahv or Yah-religion of Judæa entered the Babylonian South, Eridu, and created there the Ea-Cult alluded to.

(263): "The myth which spoke of Ea as rising from the Persian Gulf and bringing the elements of culture to his people, points to the maritime intercourse of Babylonia with Arabia, India (and Canaan, too); foreign ideas made their way into the country, and it may be that the Semites, who exercised such a powerful influence upon Babylonia, first entered through Eridu."

If so, it may be, as suggested, that its Ea cult is but a feeble reflex from the Iahv cult of Judæa, and instead of making Babylonia the doubtful nursery of monotheism why not assume the contrary, that it received it, mutilated though, from Canaan? Nor is it impossible that it was a light-wave coming over the Indian Ocean, Veadnta-ideas radiating thereto.

(273): "The divergent etymologies assigned to the name of Merodach by the theologians of Babylonia, show that they were quite as uncertain about it as we are, in regard to its origin and significance."

Possibly Genesis, 10.7-8, gives the historical clue to it. It is "Nimrod, the mighty hunter before Iahv," the conqueror and founder of the first great empire of Babel, Erech, Akkad, Nineveh." Another legend gives his birthplace to be Marad, which may mean that his origin was in rebellion (*Marad*), that he was a foreign conqueror, a son of Kush, a Canaanite, a Hamite. In all the myths about him, the nucleus of that constellation points to his having been a hero, a conqueror, a king, founder of a dynasty, perhaps identical with Gilgamesh, the center of the great Babylonian Epic.

(273): "The theology of Babylonia is thus an artificial product, combining two wholly different religious conceptions, one overlaid by the other; at a very early period . . . the beliefs of Sumer received a Semitic interpretation."

That the original Babylonian polytheism received later a Semitic infusion of Abrahamic monotheism, such a hypothesis would adjust difficulties, straighten all, and explain that hence

came the many broken ethical chips and ritualistic elements common to Judæa and Mesopotamia.

SOUL AND HEREAFTER.

(275): "In Egypt it was the *Ka* (the double, the shadow or soul of man) which linked the other world with living man. In Babylonia it was the *Zi*, the spirit, the life, synonymous with motion, force and energy." *Zi* and *Ka* closely resemble the Hebraic synonyms.¹

(293): "A great contrast exists between the Babylonian and the later Egyptian view of man's imperishable part and its lot in the other world. This difference of view results from a further difference in the view taken of this present life. To the Egyptian the present life was but a preparation for the next one.² Not only man's spiritual elements, but also his body, would survive beyond the grave. It was otherwise in Babylonia. No traces of mummification are to be found there . . . The thoughts of the Babylonian were fixed rather on this world than on the next . . . It was in this world that he had his relations with the gods . . . and it was here that he was punished or rewarded for his deeds . . . They were too much absorbed in commerce, trade and wealth to have leisure for theories about the invisible world. The elaborate map and the speculations about the other world, as in the sacred books of Egypt, would have been impossible for the Babylonian."

Curious! That double phenomenon witnessed in the above-mentioned countries of the Euphrates and of the Nile we find in Judæa too, the sober realism of the Sacred Writ, on one hand, and the spiritualism of its expounders, as in Mishna, Gomara, Agada, Apochryphæ and Moralists, on the other. When more acquainted with Egypt and Babylonia, we may well find out, that both were realistic and ideal at successive ages. Still, it is not proven whence these phases started, whether from Egypt and Babylonia to Judæa, or the opposite way. It is just as possible that the speculative movement came from the Jordan

¹רוח, נשמה, נפש חיים, חי

²Just as in the Jewish Agada and the Christian legends on hereafter.

to its neighbors. The Pentateuch has hardly any distinct traces of a hereafter. The Talmud and the Moralists are full of it, as in Egypt. Still the Talmud claims the soul's immortality and the bodily resurrection to be Biblical, in Pentateuch, Prophets and Hagiographs.

(303): "The high plane retained by woman in Babylonian society would of itself have been proof that Semitic culture had there been engrafted on that of an older people, even if the monuments had not revealed to us that such was indeed the fact."—That is the position Pentateuch, Prophets and Moralists assign to women, all the sequel of monetheism: One God, one race, one family, one right and duty.

(359): "The Semite, though he moulded the religion of Babylonia, could not transform it altogether. The Sumerian element of the population was never extirpated and probably remained little affected by Semitic influence. That witchcraft and necromancy had flourished there is a proof of this. The state-religion was compelled to recognize and lend it its sanction . . . It is instructive to consider what contrast there was in that respect between the Babylonians and the Israelites. Witchcraft and necromancy were practiced also in Israel, but there they were forbidden and suppressed. Babylonian religion could not repudiate its origin and parentage . . . The names of the gods testified that the people and their religion were alike mixed . . . Hence the early beliefs, legends, folklore and ritual from the non-Semitic past."—All this goes to show how uncritical it is to assume that Mosaism, monotheism, the teachings of the Decalogue, of Leviticus 19, of Deuteronomy etc. were importations from Babylonia.

CREATION, BABYLONIAN AND HEBRAIC.

(395): "Herein lies the great contrast between the Babylonian and the Hebraic conception of the creation. The Hebrew cosmology starts from the belief in one God, beside whom there is none else, whether in the orderly world of today, or in the world of preceding chaos. On its forefront stand the words: "In the beginning God created the heaven and the earth."—

There was chaos, but chaos had no existence apart from God in its absolute matter. The deep, too, was there, but it was neither the impersonation of Tiamat, nor the realm of Ea. The breath of the One God brooded over it, awaiting the time of creation . . . when the breath of God should become the life of the world. The elements, indeed, of the Hebrew cosmology are all Babylonian, but the spirit that inspires the Hebrew cosmology is the antithesis of that which inspires the cosmologies of Babylonia. Between the polytheism of Babylonia and the monotheism of Israel a gulf is fixed which cannot be spanned."

That the elements of the Mosaic Genesis or cosmology are Babylonian is far from being a settled matter, and if so, they are of older date than that of Jeremiah, Hezekiah and Moses; they belong to antiquity, to prehistoric monotheistic times, the times of the Ancient God of the East, *Elohi-Qedem*, frequently alluded to in the Pentateuch, not later, polytheistic Babylonia. As we have now new historical material in hieroglyphic and cuneiform script, older than Moses and Abraham, even so we may tomorrow make some new finds there, in Egypt, India, China or elsewhere, with new information. In comparing the Mosaic with the Babylonian traditions on creation, the first couple, Paradise, Deluge etc., we are rather inclined to assume that there existed traditions from earlier antiquity than that of both the Jordan and the Euphrates regions, and that from such originals each has taken its materials, independently; which materials each shaped and construed, as independently, according to its own genius, its starting point and its final object in view. And in this respect we must accord the palm of victory, the decided moral and intellectual superiority, to the Mosaic Genesis or Cosmology, over the Babylonian one; and why so? Professor Sayce has hit the nail on the head, because: "The spirit that inspires the Hebrew cosmology is the antithesis to that of Babylonia; because there is monotheism and here is polytheism; there is wisdom and holiness of Iahv, and here is the fatalism and brute force of Bel; and between Iahv and Bel a gulf is fixed which cannot be spanned."

Fluegel's "Humanity, Benevolence and Charity of the Pentateuch."

(Ibid., 482): "The Supreme Baalim"—Professor Sayce continues—"of the South Arabian inscriptions must have been of Babylonian origin. Their name and character are derived from Sumerian Babylonia . . . Arabian and West-Semitic Sabaism (star-worship), must have been the result of the contact with Babylonian civilization . . . a contact which made Ur and Harran to be the centers of the worship of the Moon-god. In Canaan is the Supreme Baal (the Lord) the Sun-god, instead of the Moon-god . . . There was a period in the history of Babylonian religion when the Sun-god was supreme . . . The solar element of Merodach threatened to absorb his human kingship (the Biblical Nimrod?). It is just this phase in the history of Babylonian theology that we find reflected in the theology of Canaan. Baal has passed into the Sun-god and his characteristics are those of the Sun-god of Babylonia . . . Phœnician tradition stoutly maintained that the ancestors of the Canaanitish people had come from the Persian Gulf."

(484): "The Moon-god of Ur is addressed in a hymn almost monotheistic in tune, as Supreme, creator, father, omnipotent. He has no rival among the other gods." Each and every deity was considered supreme and unique before conquest and amalgamation introduced polytheism, mixed peoples and worships.

ISRAEL'S GOD-AND-MORALITY-IDEA.

Professor Sayce seems to entertain the opinion that the one-god-idea of Israel has for its background and forerunner the Moon-god of Ur, Harran, Canaan and Babylonia, and brings in connection with that even Sinai. I do not think the point well taken. The fact is, each of the leading gods of the diverse countries was originally conceived by its priesthood and special worshipers as the only one, supreme, creator etc. Whilst the subordinate gods or genii were his satellites, agents or forces of nature. Every clan, country and people had thus its own Supreme One. But when such a country, tribe and people were subjugated, their god, too, was so, and had to yield to the supremacy of the god of the conqueror. The simple, practical fact of being conquered proved, in a popular, flagrant way, that the god

was not supreme, and he had to yield the scepter to the god of the victor. Again, a conquering people had an interest to disarm and conciliate the hierarchy of the subjugated tribes. Hence it introduced its own god as the suzerain, and allowed the deities of the conquered to stand and continue as secondary powers. Thus by the concession of both parties, the divine supremacy was shifted from one god to another; and sometimes the victorious party allowed the god of the vanquished to stand on terms of parity, even as before, and thus plurality of gods, polytheism, arose. So Baal, the Master; Anu, the heavens; Ea, the god of the deep; Thum, the Chaos etc., arose, each, at first, in his own region, the only one and supreme. But after a larger dominion was by arms welded out of the debris of several small ones, the god of the victor took the supremacy. So was Merodach, Nimrod of the Bible, here as yet soberly and prosaically designated as a Kushite hunter and conqueror, invested by the halo of posterity and of time, with divine supremacy, at Babylonia, and gradually in all its neighboring countries under his own and his successors' sway. At first the other gods, Baal, Sin, Anu, Ea, Asari etc. were allowed to continue side by side with him; soon as subordinates, as genii; and lastly an effort was made to coalesce all into one; all were fused and united into Baal-Merodach, with an attempt at making them all but attributes of Merodach, and thus establishing monotheism at Babylon. But as all, even religion, was ruled by conquest and force, not by reason or conviction, so all fell asunder and submitted, with the change of the leading nation; Babylon yielded to Nineveh, to Ecbatana, to Persepolis, to Macedonia; even so Bel-Merodach had to yield his throne to the victor. Israel was the only nation that did not change his god according to the issue of battles. In victory or in defeat, in Goshen, Shiloh, Samaria, Tirzah or Jerusalem, the prophets taught the Supreme Being as God. So gradually, the Ivh-God-idea became dominant and universal with the later, spreading, higher Christianity and Mohammedanism. This explains why those leading gods of polytheism are so differently delineated at different historical epochs; soon as Supreme, Only One, Creator, Eternal, Immutable;

and soon again, as subaltern genii, mere agents and messengers of some other Supreme god; under the emblems of the Sun-disk, or the Moon, or yonder star etc. This shows why Merodach, Sin or Ea are often depicted so closely alike to the God of the Bible, *Ehik, Ih*. They were real attempts at monotheism; the descriptions of Ea in Eridu comes, apparently, closest to it, but they were only attempts, and abortive attempts, too; the respective country, region, temple and priesthood being conquered, the nation yielded and accepted another Supreme as their own, hence polytheism and hypocrisy in the Heathen Church. With the new god came in a new polity and ethics. Whenever holiness, truth and wisdom have to bend the knee before force and the issue of battles, religion and morality are wrecked, and selfishness and hypocrisy flourish. The rules of conduct, of such time-serving, shifting-sand religions and chameleon-gods can never become pure and refined; because such deities and churches, ever having brute force and arms as their background and their basis, they ever recurred to them, not to reason and justice, holiness and perfection. The morality of Baal and Merodach therefore could never come up to that of *Ivh*. The issue of battles ever decided the destiny of the dynasty and of the god; showing that force, and not wisdom, truth and right, are their ultima ratio. Israel not yielding his conscience to the chances of force and battle, had alone the opportunity in 3,500 years to elaborate the highest idea of man, family and society; of God, justice and morality. The Babylonian Ea and the Egyptian, priestly Osiris and their polity are their weak reflection, the nearest approach to that ideal, as the moon is to the sunlight. We return to Prof. Sayce:

(487): "The dark background of magic and sorcery distinguished and disfigured the religion of Babylonia up to the last . . . That Sumerian element continued in the Babylonian people. It was never eliminated. Behind the priest lurked the sorcerer¹ . . . hence the exaggerated importance attached to rites and ceremonies . . . and the small space occupied by

¹This was the case mostly everywhere, rooting in the mystic element of man and the credulity of the masses.

the moral element in the official Babylonian faith. Of morality, as an integral part of religion, there is little evidence, not even as much as in the doctrines of Osiris in Egypt, though the moral element was not altogether wanting therein."

We believe this will suffice to show the solid drift of the argument, and the unequivocal trend of the researches of the distinguished Professor of Oxford, viz, that my estimate of his important work is correct and that his view coincides with that of these pages. I have occasionally ventured on minor points to express a different opinion from his, but on the whole, I feel happy that his weighty opinion fully corroborates mine, expressed in this treatise concerning the position of Mosaism with respect to other doctrines, long ago known or lately discovered. Professor Sayce is a man of great erudition, fully consonant with theology, archæology and history, and a leading master in Egyptology and Assyriology. He has had at his command all the new and the old materials involved in our theme, he is at home on the Nile and on the Euphrates, as he is in Glasgow and in Oxford, and though he conjectures and assumes that the Mosaic legislation and institutions may have as a far-off background the entire civilization of Babylonia, Assyria, Egypt, Canaan, nevertheless, he decidedly opines that the leading traits of Mosaism, the one-God-idea, the ethics etc. of monotheism, holiness, man's spirituality, the holy Sabbath, holy human life with its purity, truth, charity and morality, are indigenous and original to the sacred soil of the Bible, of Judæa, not to the Euphrates or Hammurabi, the Canaanitish conqueror and Babylonian lawgiver.

FORMAL SIMILARITIES AND ESSENTIAL CONTRASTS BETWEEN BABYLONIA AND JUDÆA.

Whilst Professor Sayce heartily acknowledges the great discrepancy of doctrines between the religions of Jerusalem and of Babylon, he, nevertheless, is inclined to overrate, I think, the influence of the latter over the former. In his interesting chapters on "Sacred Books and Temple Ritual," he points out a great many apparent similarities between the temples, the views,

the worship, the priesthood etc., of the two countries and concludes (page 478) that: "Apart from this profound distinction (of monotheism and polytheism), the cult and ritual have more than a family relationship. Customs and rites which have lost their primitive meaning in the Levitical Law find their explanation in Babylonia. Even the ecclesiastical calendar of the Pentateuch looks last to Babylonia and the age of Hammurabi. It cannot be an accident that the latter was the contemporary of Abraham, 'born in Ur of the Chaldeans.' The Mosaic Law must have drawn its first inspiration from the Abrahamic age, modified and developed though it may have been in the later centuries of Israelitish history." Much less sober and reserved are other Assyriologists. They speak boldly of borrowing and copying, and of the necessity of "shifting the religious center from Judæa to Babylonia." We shall therefore quote from Professor Sayce's work some more passages with the analogies and parallels alluded to, and these will show that their import is hugely exaggerated, and that sound criticism cannot but render as its final verdict that Abraham started indeed from the Chaldeans, but expressly in order to begin in Canaan a new phase of civilization, his own great ethical era, not Hammurabi's, the final outcome of which initiative was Mosaism. They will show that for every one trifling, formal similarity, we shall find ten striking essential differences between Jerusalem and Babylon; just as the parallelisms and contrasts between civilized man and savage, structural identities and intellectual antithesis. We continue our extracts from Professor Sayce's work:

(358): "Babylonia possessed an organized official religion, a combination of heterogeneous elements. It had its sacred books, but different from those of the Egyptians. The Egyptians lived rather for the future life than the present, and their books were Books of the Dead, to guide them through the next world; whilst the cares of the Babylonian centered in the present life."—This may explain why the Pentateuch contains so little about the hereafter; whilst Talmud and Agada are so much concerned with resurrection, immortality, last judgment,

purgatory, hell and paradise.¹ To the Psalmist and the Babylonian the next world was a land of shadows, dreary and dark, disagreeable to dwell in: "The dead do not praise *Ih*" (Ps., 115. 17), similar verses by the scores there.

(410): "The official canon was collected together from all sides . . . Most of the great sanctuaries probably contributed to it. There were books of incantations, of hymns and prayers to the gods . . . Babylonia never succeeded in absorbing the religious cults of the other sanctuaries . . . and that prevented the rise of monotheism . . . The hymns went together with the magical ritual, incantations, charms etc., and belong to different ages, periods and sanctuaries, containing poems, war-songs, spells, and philosophical addresses to the gods" . . .

(412): "On the festival of the New-Year the services in the Temple of Bel-Merodach was opened by a hymn closing with: Show mercy to the City of Babylon . . . To thy Temple incline thy ear . . . Grant the prayers of thy people . . .

(413): On the second of Nisan the priest went down to the Euphrates, at the first hour of the night, in his robes, uttering prayers."

That reminds of the river ceremony (*Tashlich*) on the Jewish New Year. In Babylonia, too, the New-Year varied, from *Nisan* or spring time to the fall season, *Tishre*. The New-Year was considered as a day of judgment (*Iom ha-din*). Here is another similar hymn: (415) "Direct the law of the multitudes of mankind . . . Thou art eternal righteousness . . . Thou art of faithful judgment . . . Thou knowest what is right and what is wrong . . . Wickedness has been cut down . . . Judge supreme thou art . . . Purify and illumine the king, the son of his god, cleanse him, illumine him, release him from ban" . . .

(417): "Like the Hebrew Psalms, their hymns express the belief that sin is the cause of calamity and suffering, and these can be removed by penitence and prayer. But whereas the Hebrew knew but one God . . . the Babylonian was distracted

נן ערן, גהיגום, חיבוט הקבר¹

as to what particular deity he had to appeal to . . . There were moral sins and ceremonial sins, even involuntary sins . . . and all were alike and equally punishable, sin of ignorance as sin with deliberate intent."—(421): "O Lord, cast not away thy servant who is overflowing with tears; take him by the hand! . . . The sins I have sinned turn them to blessing . . . My transgressions, may the wind carry away!" Babylonian penitential psalms remind of our Middle Age "*Poetans*."

(448-9): "The temple of the god was the center and glory of every great Babylonian city. The Babylonian states had been, at the outset, essentially theocratic. Their ruler had been a high-priest before he became a king, and to the last he remained the vice-gerent and adopted son of the god. Around the temple the city had grown and become a state . . . The culture of Babylonia was with good reason traced back to god Ea . . . The place occupied in Assyria by the army was filled in Babylon by the priesthood. The temple was the oldest unit in the civilization of Babylonia."—All these features are characteristic also of Jewish history and communal life.

(453): "In the tower or Ziggurat (of a Babylonian temple) we must see a reflection of the belief that this earth is a mountain whose highest peak supports the vault of the sky . . . Later the Ziggurat began to consist of seven stories, dedicated to the seven planets."—The Jews had no artificial Ziggurat, but natural mounts, as Moriah, Sinai, Karmel. The number seven is sacred there, too; seven week days, seven Release Years form a Jubilee Year, seven yearly festivals etc.

(454): "The temple entered with a great outer court, 900 feet in breadth and over 1,150 in length . . . An arcade ran round its interior, supported on columns . . . and two larger, detached columns stood on either side of the entrance. In Babylon a second court opened out of the first, devoted to worship . . . Six gates pierced the walls. Then came the platform of the original temple. There was the Ziggurat, the house of the foundation of heaven and earth, with seven stages, one above the other . . . A winding ramp led upwards on the outside connecting the stages. In the seventh stage was the chamber of

the god. It contained no image, only a golden couch and a golden table for the shew-bread. None but a woman-prophetess was allowed to enter it. To her, god Bel revealed himself at night and delivered his oracles."

Some slight similarities the Temple of Herod may have had with this description. Two courts, an arcade, two front pillars, a sanctuary and a Holy of Holies, on a level, no Ziggurat, no seven stages; but in the Holy of Holies there was a small stone, called foundation-stone (*Eben Shethia*), upon which the high-priest, on Atonement Day, placed his fire-pan with incense. The Holy of Holies symbolizing the universal, boundless space pervaded by the invisible, infinite Deity, was an empty space, no mercy-seat, no couch, no table of shew-bread there¹ and no prophetess. Once yearly on the Atonement Day, the high-priest entered it and made there his confession of sin; nothing miraculous. It was an empty space, without even the Ark of the Covenant and the Cherubim.

(456) "In the Ziggurat only, the deity came down from heaven in spiritual guise. In the chapels and shrines at its feet, images were numerous. There the multitude worshipped and the older traditions of religion remained intact. Around the Ziggurat were the temples dedicated to the leading gods and to Merodach himself, with his golden image, a table of shew-bread and a Parakhka, or mercy-seat . . . The innermost sanctuary was known as Du-azagga, the Holy-Hill. It belonged to god Ea and Asari, his son, later identified with Merodach. The Holy-Hill and the oracle passed to the shrine of Merodach, where he delivered his oracles on the New-Year . . . and announced the future destinies of men."

(Note, page 374): "Du-azagga, the holy mound, was the home of Ea. When Eridu and Ea were supplanted by Babylonia and Merodach, the Du-azagga, the seat of the oracles, was transferred to them, to the shrine of Bel-Merodach who, at the beginning of the year, 'seats himself, while the other great

¹The table with shew-bread was in the Holy Place, in front of the curtain, parocheth, dividing the Holy Place from the Holy of Holies.

gods stand around him with bowed heads, he revealing destiny.'"—(458): "The general plan of the temples was alike everywhere, a court open to the sky, surrounded by cloisters and colonnades, with the houses of the priests, the library, school, shops for the votive objects, stalls for the sacrificial animals. In the center of the court stood an altar of sacrifice, with vases for ablution, a sea or basin of water, the symbol of the primeval 'deep' (of god Ea of Eridu), sometimes on the back of twelve oxen, but sometimes decorated with female figures" . . . (458): "The great court with its two columns, in front, led into a second, where the Ziggurat arose. In the second court arose the temple proper, consisting of an outer sanctuary and an inner shrine . . . No one could appear before the god, except through the mediation of the priest."

(461): "The temples were served by an army of priests. At their head came the patisi, or high-priest, who, in early Babylon, performed the functions of a king, as the adopted son and vice-gerent of the god . . . With Semitic supremacy the vice-gerent took to himself the attributes of the deity . . . Under the chief-priest was a large number of subordinate priests, divided into sacrificers, pourers of libations, anointers, bakers of the sacred cakes, chanters, wailers, armbearers, prophets and augurs, soothsayers, necromancers etc . . . The prophets were a class apart. At times they predicted the future . . . oftener they announced the will of heaven . . . as the interpreters of the will of Ea . . . Another class were the seers, to whom the future was revealed in visions and trances" . . . (464): "To Assur-bani-pal, on the eve of the Elamitic war a seer announced his dream: Istar came down, on the right and left hand hang her quivers, in her hand she held the bow, the sharp war-sword held before her; Istar the queen of the gods, appointeth for thee a doom. Eat, drink wine, exalt my divinity until I march and accomplish my work . . . and give thee thy heart's desire" . . . (465): "The prophet there was a member of the priestly body, with previous training and consecration (not a layman) . . . He was closely linked with the magician and necromancer. Magic was under the protection of the State-religion . . . There

were male and female prophets . . . Women were specially employed in the temples of Babylonia . . . Unmarried women were consecrated to Istar and the Sun-god, forming a corporate community. All these were annexed to the temple."

(467): "Libations of water, wine, milk and oil were offered to the deity. Animal sacrifices, too, were offered of the domesticated beasts and of the cultivated plants; of all that man enjoyed, he gave to heaven. Dog and swine are never mentioned in the sacrificial list . . . The gazelle was driven into the desert, as a scapegoat, carrying away the sins and sicknesses of those who let it loose, like the Hebrew Azazel . . . The gods of Semitic Babylonia were essentially human and what men lived upon they, too, required¹ . . . Apparently, the first-born of man was included among the acceptable sacrifices to the gods, but at an early time discontinued"² . . .

(469): "A tithe of all the land produce belonged to the gods, paid by all classes, even the king, for the support of temple and priests." (470): "There were daily sacrifices, animal, meal, free-will gift and trespass-offerings, called qurbannu"³ . . . (471): "The royal temple stood close to the Temple of Merodach. Even the bronze serpent which Hezekiah destroyed finds its parallel in bronze serpents erected in the gates of the Babylonian temples."—(472): "There is also the ritual of the sacrifice of a lamb at the gate of the house, the blood of which is to be smeared on the lintels and door-posts . . . There are many other resemblances between the festivals of Babylonia and of Judæa. Babylonia was an agricultural community, and its festivals and names of the months were determined by that. Spring and autumn were marked by sowing and harvesting, though on account of the different climes, vary-

¹This goes to corroborate Herbert Spencer's theory that (at least with some peoples) worship grew from and began with the veneration of ancestors, tribal chiefs, who became gods and were offered sacrifices as food, after death, as during lifetime.

²The Pentateuch frequently denounces such sacrifices. It instituted the redemption of the first-born, instead.

³The Hebrew qorban. So also Assyrian *Kuppura* is the Hebrew Kippur, Atonement.

ing also in time . . . That was a period of rejoicing and rest from labor, with thanksgivings and offerings to the gods.”—(473): “In the old days of Gudea of Lagas the year commenced with the middle of October. In later Babylonia, of Hammurabi, the feast was transferred to spring . . . The ancient Canaanitish year began in the autumn, later reckoned as the seventh month. At Babylon the New-Year was sacred to Merodach, ‘when he sat in judgment and designated the fate and destiny of all mortals. This may explain why the Pentateuch designates spring (Nisan) as the first month. It never mentions ‘New-Year,’ but the first of the seventh month, as a Memorial-Day, and the Synagogue solemnizes it as New-Year and Judgment-Day, with the hymn,¹ ‘*We give power,*’ drastically describing God determining the divers human lots and destinies of the coming year.”

(392): “The conception² of a law governing the universe and unable to be broken, lay deep in the Babylonian mind. Even the gods could not escape it. All they could do was to interpret and unveil the decrees of fate and act up to them. These were contained in the Tablets of Destiny which Bel wore on his breast, as the symbol of supremacy, and which enabled him yearly to predict the future, not to change it . . . So, Bel-Merodach of Babylonia had to sit each New-Year’s Day in the mystic chamber of fate and determine the destiny of mankind during the ensuing year.”

It is well known that the Synagogue considers New-Year, on the first of the seventh month, as a Judgment-Day.³ A solemn meditation on it runs thus: “Thou, God, rememberest the world’s destinies, all secrets lie uncovered before thee, nothing is hid before thy throne. No creature escapes thy Providence. Thou rememberest all generations . . . Thou decreest for all the countries, which to hunger and which to plenty; this for war and that for peace; and all the creatures, whether for life or

¹U-nethane toqef.

²Of Hindu origin, reproduced vaguely by the Qabbalists and distinctly by Spinoza: All is law and necessity, there is no freedom in the entire Cosmos.

³ראש השנה, ונתנה תוקף, יום הדין, זכרון תרועה

for death; all is foredestined today" . . . Another meditation is even more to the point. It is recited on the high holy-days, setting forth the majesty of the Supreme Judge in all his grim and awful grandeur: It reads: "Let us tell of the import of this holy-day, redoubtable and awe-inspiring. Thou, God, art enthroned in mercy and dwellest in truth on thy judgment seat. Thou art judge, advocate and witness. Thou openest the book of records, wherein every man's hand is inscribed and sealed, and the great cornet is blown, the angels hurriedly stirring, with trembling and shaking, exclaiming: The Judgment-Day is at hand, to decree for all the created hosts; and all the world-inhabitants pass by thee as the lambs; as the pastor passes his flocks under his rod, even so thou rememberest all the living and decreest to them their irrevocable destinies . . . On New-Year it is written down, on the Atonement-fast it is sealed, how many shall pass away, how many be born, who is to live, who to die; by water, fire, sword, wild-beast, hunger, thirst, pestilence or earthquake; who is to be strangled, stoned; who to be impoverished, and who be enriched; who be lowered and who be exalted. Still, repentance, prayer and good deeds may turn and change bitter fate."—Here we see shadowy and helpless Bel-Merodach yielding his place to Iahv. Moreover, Iahv alone is Master and Lord of even fate, whilst Bel, as Jupiter, tremble before fate. No blind destiny; repentance and good deeds carry their reward. In the Synagogue New-Year is termed Memorial-Day when God decrees the fate of all beings. Here is the full superiority of Judæa over Babylon, of monotheism over polytheism; what was there idle myth becomes here a moral lesson, grand and effective, inducing man not to despair, but to repentance and improvement.

(474): "There was a third agricultural festival, at the Summer solstice, in the month of June, corresponding to the month of Tammuz, celebrating a god who died an untimely death."—These three great agricultural feasts are found again in Canaan and in Israel, but here with a rational sense, they are agricultural and national, dedicated to God, not myth.

Fluegel's "Humanity, Benevolence and Charity of the Pentateuch.

(475): "When Gudea consecrated his temple at Lagas, he remitted penalties and gave presents. For seven days the slaves were the equals to their masters . . . Berosus mentions a similar custom on a feast in July, in Babylon. That has often been compared with the Roman Saturnalia."—Some parallels here by the Professor, about the Jewish Esther feast, *Purim*, and the Year of Jubilee are entirely untenable; but the ten days of repentance (between New-Year and Atonement), and the days of the feast of Lights of the Jewish calendar, on one hand, and on the other, the vacation days between Christmas and New-Year, may be put in parallel with those antique days of temporarily enfranchising the slaves and domestic hilarity, practiced in Babylonia, in Judæa, in the Roman world and in the Christian world.

(476): "The Sabbath day was essentially of Babylonian origin . . . It is termed there *Sabbatu* . . . In a list of the month of the second Elul, we read that the 7th, 14th, 19th, 21st and 28th days of the month were all alike days of quiet and rest, dedicated to Merodach and Zarpanit. It is a lucky day and a quiet day" . . . But what proves that every month had its seven days' Sabbaths? Why is the 19th of the second Elul, too, such a rest-day? Were there thus, in all, five Sabbaths in that month? Elsewhere we have shown that Exodus, 16.26, plainly states that the Sabbath-rest was known to the Hebrews previous to the Exodus and the Sinai Law.¹ Next, what proves that Sabbath in Babylonia was a holiday, in our sense of the term? A day of universal rest, consecration, elevation and spiritualization it became only with Israel, only with the Mosaic Code, a day characterizing the Hebrew people for millennia, superior to the New-moon and all the holidays, and of the most far-reaching consequences.—(478): "As we come to know more of the ritual of Babylonia, the resemblance it bears to that of the Hebrews becomes more striking and extensive. They both start from the same principles and agree in many of their details" . . . —In some small details they do agree, but they

¹See "Spirit of the Biblical Legislation," pages 144-147.

start not from the same principles, far from that. The resemblances are but superficial, in externals and in forms, not in spirit and not in essentials. Each starts from most different principles, and hence must arrive at divergent conclusions. There may have been some outward resemblances in the temple structure, forms of worship, sacerdoce, time of feasts and jollification etc., but not in soul and spirit. It is a difference as between civilized man and savage. Babylonia went on and continued polytheistic and mythic; Judæa sharply broke off and became monotheistic, realistic; here is the difference. I feel happy in coinciding fully with the conclusions of the Professor in the chapter just reviewed, acknowledging that "the principles of Judæa and Babylonia were immeasurably different, hence their results must have been so also." So Professor Sayce, verbatim, concludes: (478): "Between them, indeed, lies that deep gulf of difference which separates the religions of Israel and Babylonia, as a whole; the one is monotheistic, the other polytheistic."—Yes, the one is monotheism, with goodness, justice, purity, wisdom, freedom, peace, mercy and work; the other is polytheism, with force, over-reaching, sensuality, myth, slavery, war and conquest—The difference is: there barbarism and here civilization; exactly the same result as that arrived at, when we compared the Code of Hammurabi to that of the Pentateuch.

BABEL-BIBLE CONTROVERSY IN GERMANY.¹

"Professor Delitzsch was bold enough to assert that by the Babylonian writings he could prove that the God-idea of the Old Testament originated with the Babylonians, that also the Sabbath is of Babylonian origin. He thought he could depreciate the entire Old Testament and in its place plant the standard of old Babylon. . . . Delitzsch finally made the following statement: 'Mankind needs a form in order to teach the God-idea, especially to our children. This form has up to the present time been the Old Testament as handed down to us. This form will change considerably as a result of researches, inscriptions and

¹Clipped from a German paper of 1903, April, and translated into English.

excavations. That is of no consequence, even if much of the nimbus about the chosen people be lost. The kernel, the content, remains the same—God and His works! . . .

“On the whole, the Jews can depend upon the Christian theologians, who all, each in his own way, defend the cause of the Old Testament. Countless lectures, protests, pamphlets, pour in every day. And now that the Emperor publicly disavows his former favorable opinion of the lectures, the protest against ‘Babel and Bible’ will continue, so that what Harnack said to the representative of the New York Staats-Zeitung will prove to be true: ‘We may hope that the precious value of the Old Testament, the lofty spirit which emanates from prophet and psalmist, the ethical progress which exists in monotheism, will be universally appreciated by reason of this controversy.’ . . .

“A learned Assyriologist, the Protestant minister, Dr. Johannes Jeremias, attacks the subject from a purely scientific point of view, and compares Moses and Hammurabi. The pamphlet turns against Delitzsch’s assertion of the lesser value of the Mosaic Law compared with the collection of Hammurabi’s laws, recently discovered. In Dr. Jeremias the learned theologian and the learned Assyriologist are of equal rank, and he finally comes to this conclusion: ‘With satisfaction and joy I admit that through the discovery of the Codex Hammurabi my conviction of the divine origin of the Thorah has been strengthened.’ ‘Leopold von Ranke,’ he says at the end, ‘again proves himself in the right. Moses is the most eminent personality in the history of antiquity.’

“Prof. Dr. Giesebrecht, the Protestant representative of the study of the Old Testament at the Berlin University, also took hold of the matter, and in a lengthy discourse presented a sharp criticism of Delitzsch’s assertions. Delitzsch suffers, he says, from a lack of philosophical and historical training—indeed, even the elementary knowledge of religious history. Giesebrecht’s remarks, too, point to the glorification of the Old Testament as opposed to Babylonian culture. ‘We see appearing in Israel an unbroken chain of holiest prophets, who, pure and incorruptible, pronounced judgment upon their people, each sur-

passing the other, penetrating deeper and deeper into the treasures of divine wisdom . . . But where can we find the fullness of divine thought? Surely not in Babylon, where for thousands of years the most outrageous superstition prevailed, where, as even Delitzsch must admit, the basest idolatry always existed, while in Israel idolatry was abolished, the one God worshipped and all superstition officially prohibited. . . . Why has Babylonia produced not a single religious leader, not even a prophetic personality, worth mentioning? . . .

“At the beginning of the new edition (26,000-30,000) of ‘Babel and Bible’ appears a preface entitled ‘An Explanation,’ which in reality is a piece of diplomacy. He is aware of the fact that the Emperor is satisfied to admit a ‘modification of the nimbus,’ so far as Israel is concerned, so long as his sensibility as a Christian remains intact; accordingly, Delitzsch quotes one of the prophets, who prays that the wrath of God be visited upon the foes of Israel, and in the eloquence of his prayer preaches the destruction of every other nation. The passage ends: ‘And I will tread down the people in mine anger, and make them drunk in my fury, and I will bring down their strength to the earth.’ ‘Truly,’ continues Delitzsch, ‘a song of battle and triumph, Bedawin-like in wording, style and thought. No! These verses (Isaiah, chapter 63.1-6), and hundreds of other prophetic sayings, full of inexpressible hatred against the nations—Edom, Moab, Assur, Babylonia, Tyre and Egypt—for the most part masterpieces of Hebrew rhetoric, are supposed to represent the ethical prophecy of Israel in the highest form! These expressions of political jealousy, peculiar to the period, and from a human point of view of a passionate hatred easily understood, belonging to generations of thousands of years ago, should perhaps serve as a book of religion—of morals and edification for Western and Christian civilization of the twentieth century! Instead of thankfully appreciating the rule of God in our own nation from its Teutonic origin to the present day, we continue, in ignorance, indifference or blindness, to acknowledge those revelations of the ancient Israel oracles, which cannot hold their own in the light of science, religion

or ethics. The deeper I delve into the spirit of the prophetic writings of the Old Testament, the more fearful I am of Jehovah, who destroys the nations by His insatiable sword of wrath, who has but one favorite child, and who delivers all other nations into darkness, shame and destruction; who spoke to Abraham: 'I will bless them that bless thee, and curse them that curse thee.' I take my refuge with him who, living and dying, taught 'Bless them that curse you, and flee full of faith and joy and earnest endeavor towards moral perfection to that God to whom Jesus taught us to pray; that God who is a loving and just Father to all persons in the world.'

"Does not Delitzsch surpass himself? Can there exist greater sophistry than to present one quotation without its context as a proof against the Old Testament and its spirit, and then, with unction, to compare with it a verse of the New Testament? No; Herr Delitzsch, neither you nor your Emperor bless those who curse you. Whoever curses the Emperor is not blessed by him, but is cast into prison for *lese majesté*. And when, in case of war, as in China, he 'gives no pardon,' and war is war now, as in Isaiah's day. The only difference is that nowadays there is none to picture war so powerfully and graphically with such lofty poetry as did that great poet. Nor has any poet since his time depicted peace so divinely, that peace when mankind will 'beat their swords into plowshares and their spears into pruning-hooks. Nation shall not lift up sword against nation, neither shall they learn war any more.' Who would believe him who ridicules the revelation when he, with sudden hypocrisy, acknowledges that God to whom Jesus taught him to pray? Surely, he is the same God who was revealed in the Old Testament, so strongly denied by him. No other!

"Now his opponents will find it easier. One need be no theologian to understand—every layman can see the gross contradiction. It is a pity that Eduard Koenig and Harnack have already written their views; it would have been interesting to know what these eminent, thoughtful theologians would have said about this preface.

"That broadminded preacher, Friedrich Steudel, of Bremen, in the journal, *Das Freie Wort*, opposed Harnack and the Emperor even more than Delitzsch himself. Steudel strikes the nail on the head when he says of both, Harnack and the Emperor: "Since they do not wholly appreciate the weight of their words, both are blameworthy. The Emperor has 'unshaken faith in the word of Christ;' Harnack advises 'to obey His command.' Both are sincere in believing the highest and best. But perhaps a time will come when one is sincere enough to oneself to admit the impossibility of an actual realization of Jesus' teachings. . . . For these words have been handed down from Him: 'Resist not evil, but whosoever shall smite thee on thy right cheek, turn to him the other also;' 'Bless them that curse you' (the very sentence which Delitzsch selected to show Jesus' superiority over the old prophets); 'Blessed are the meek;' 'Blessed are the merciful.'

"Compare with this the imperial words, 'I will destroy my enemies;' 'No pardon to be given,' '*Suprema lex regis voluntas*,' one can easily recognize the deep chasm between the world of reality and the teachings of Jesus. . . .

"It is impossible within the limits of this article to quote the numerous writings called forth by the discourse of Delitzsch upon 'Babel and Bible.' Each day brings new contributions worthy of notice.

"In conclusion, one more opinion, that of Eduard Koenig, who summarizes his own views and those of a number of prominent men of learning: 'Yes, Babylonia undoubtedly represents the starting-point of numberless moving forces in culture, reaching far and near. But religion, the conclusive factor of all culture, possesses its classical source in the Bible. Babylonia may be termed, if you will, the 'brain of Asia,' but what forms the real life of the Bible had its source in overtowering experience, and the eternal truth will prevail, that in Babylonia mankind endeavored to reach heaven, but in the Bible heaven reaches down into the lives of poor humanity.'"

Fluegel's "Humanity, Benevolence and Charity of the Pentateuch."

OPPERT ON FRIEDRICH DELITZSCH.

According to Professor Oppert ("Babel and Bible"), "the main idea of Professor Delitzsch is that everything is Babylonian . . . The Mosaic Law is indebted for all its contents to which the term moral and great may be applied, to Assyria and Babylonia. Only the human and objectionable parts belong to Israel. Even the idea of the existence of One Only God is assigned to Babylonia . . . The legends of Creation, the Deluge, the Sabbath, the feasts, all come from Chaldea . . . And all these assertions, which are false and rest on no historic foundation, are sent forth to the world, while nearly everything that proves the contrary is ignored . . . To Iahv is given the character of a 'wild Bedawin,' forgetting that he is described as: 'the God of mercy and grace, long suffering, of great benignity and truth.'

"In a remote age a people of Uranian origin descended to the plains of Mesopotamia, from the high plateau of Central Asia. This Sumerian people, Sanir, is preserved in the Shinar of the Bible: "Two Rivers" (*Shenai-Naharim*). In the sixth millenium before the Christian era, a Semitic emigration proceeded from Arabia, which modified the Sumerian civilization, merging the Uranian deities into the Semitic ones. Thus was evolved the Sumerian culture . . . From India to Egypt, all over Western Asia, we note the same process of evolution. Delitzsch knew only Chaldea. At the commencement of the second millenium before the Christian era, Abraham went forth from Ur in Chaldea, a striking personality, the first man on record who professed the idea of one god . . . He settled in Canaan . . . It was from Egypt, not Chaldea, that Moses came . . . The Babylonians regarded the 7th, 14th, 21st and 28th of the moon as unlucky . . . But as the month has 29½ days, these rest days fell on all days of the week. The Mosaic Sabbath made it independent of astronomical influence; it calculated each week of seven days, not by the moon, but by arithmetical numeration" . . .

"Three names found in Babylonian business-deeds are mentioned by Delitzsch as meaning 'Iahv is God,' and this shows

conclusively his faulty deduction . . . All three¹ names belong to persons, invoking, in the very same documents, several heathen deities—queer monotheists! Each of the three names is the third person of an Elamite verb, and by no means a divine name . . . As a matter of fact, the many different Babylonian gods and Merodachs prove that the most extravagant polytheism prevailed in Chaldea, down to the times of the Romans . . . As long as Delitzsch confined his criticism to the Old Testament his audience was pleased; but when he commenced discussing the Gospel he was invited to hold his tongue! . . . Hammurabi was not Amraphel, King of Shinar.² The first reigned earlier . . . The historical truth cannot be minimized that among all nations of antiquity Israel alone kept its faith to one God and alone is alive to it.”

¹Yapi-el, Yauppi-el, Y'a-u-um-el; Delitzsch reads Yahael, Yauhael, “h” instead of “p,” which Oppert contests.

²The same opines I. Halevy, of the Paris Review Semitique.

CHAPTER IX.

Egyptology, Bible and Rabbinism.

More than in Babylonia we find in Egypt many spiritual elements which have been utilized, utilized, not copied, utilized after much pruning, elaborating and chastening, widening and deepening, systematizing and making them square with the full and mature conception of Hebrew monotheism and spirituality. We have seen Judæa standing on the postament of Babylonia, the heir of its culture, about as much as man may be the far-off outcome of a lower creation. But spiritually, it seems to me, it stands much nearer to Egypt. Let us pick up the elements to this view in the same excellent work of Prof. A. H. Sayce. We have above surveyed one part of it; here let us examine its other part: (Ibid., 33). "In Hermopolis the conception of Creation by the (divine) voice was first formed and worked out; while at Heliopolis the deities were first formed into groups of nine, which led to their identification and thus prepared the way for monotheism."¹ (35-36): "The Pharaoh, Khu-n-Aten appears as a royal reformer, determined to realize the idea of the Supreme Deity, the sole and only God, the absolute ruler of the universe, eternal and invisible . . . But the impulse to that reform came from Asia. His mother was a foreigner, and that reform proved a failure . . . Though enforced by the power of the Pharaoh, it hardly survived his death. Ammon of Thebes came out victorious . . . The Egyptian continued as he was . . . Only a few educated ones became less materialistic . . . The educated came to see in the multitudinous gods of the public worship merely varying manifestations of one divine substance . . . At the same time, the old belief was never disavowed, that images were actually animated by the gods or their human prototypes." (94): "Henceforward there was to be but one god in Egypt, omnipresent and omni-

¹Maspero, "Etudes de Mythologie," II., 372; so the Qabbala's 10 Sephiroth may be the Hebraic ladder to the same climax.

scient, brooking no rival at his side . . . The Pharaoh, Ammon-Hotup IV. changed his name into Khu-n-Aten,¹ and thus publicly acknowledged his new religion of Aten.”—(97): “The solar disc was the emblem of Aten, creator of all existence, by the word of his mouth.”—(98): “Aten was in the things created. There was nothing outside him . . . He was the god of the whole universe . . . and all live through him (and he in them, *i. e.*, God immanent in the universe, pantheism).”—(99) “The date of Khu-n-Aten is about 1400 B. C. Is there any connection between that and Mosaism? . . . In Mosaism we look in vain for any trace of pantheism; Ithv stands outside of his creation ” (holding it in his lap).

EGYPTIAN IMMORTALITY CONCEPTION.

The Egyptians believed that besides the body, man harbors something incorporeal which remains after the body's death. That remaining part they designated by different names, as the Ka, Khu and Ba, viz:

(Page 48): “*Ka* was the double, the reflection, the shadow, the name, the soul, the idea, the fac-simile, the essence and personality of a thing or person. It was also the arch-type, of which all other like things were but the copies, as were Plato's Ideas. This was the philosophical development of the popular *Ka*, originally the shadow and double of the thing.

(Page 62): “The divinest part of the soul was termed *Khu*, intelligence, *nous*; it held in its envelope the *Ba*, the soul, the psyche. These three terms for the invisible human soul or spirit correspond somewhat to our modern terms of vitality, or animal life, soul, and finally intelligence, spirit in the highest

¹“The glory of the Sun-disc,” according to Professor Sayce. But may it not mean the *Ka* or the *Kuh*, the soul of Aten, identical with the Vedanta term, Atman, the Supreme Brahman, the Living Breath, the Ruah-Elohim of Genesis, 1.2? In all these metaphysical speculations I ever suspect an original identity of idea, multiplied and varied later by inaccurate translations and misunderstandings, different words for the same thing. Such was the Hindu Brahman, the Universal Soul, Self-Existent, Spiritual Essence, and such the Egyptian Khefer Zes, the Self-Grown. Let scholars look to it.

sense." They may be approximately the equivalents of the Hebraic *Nepesh*, *Neshama*, *Ruah*,¹ all three synonyms denoting alike breath, wind and life, *hai*, *haim*, *Zoo*, *Zi*, *Ka*.

The "Hermetic books" teach (page 62) that: "As long as the soul is imprisoned in the body, the intelligence is deprived of its robe of fire, its purity is sullied. The death of the body releases it from its prison-house; it once more soars up to heaven and becomes a spirit, daimon; while the soul is carried to the hall of judgment, there to be awarded with happiness or punishment, in accordance with its deserts."² The *Khu*, in other words, is a spark of that divine intelligence which pervades the world and to which it must return. The *Ba* is the individual soul, responsible after death for the deeds committed in the body."

Such ideas pervade also the Jewish mystics and moralists, even the Qabbalists. The soul is differentiated into *Nefesh*, *Neshama*, *Ruah*, the heart *leb* and *hibut haqaber* answer to the above Hermetic description. There, too, the heart is mentioned as the seat of the passions. In the Egyptian ritual it is the stomach, thrown into the sea, as the origin of sin.

(63:) "The *Ka* was distinguished from the *Ba*. (The *Ba* was thus the more refined being than the *Ka*, and less than the *Khu*, its husk and envelope.³) After purification it ascended to heaven and remained with the gods. Whilst the *Ka*, as the shadow of the body, clung to the grave and participated in the food offered to the dead within. Hence came the habitual offering of food on the grave, yet lingering in Egypt."—Food is not offered on Jewish graves, but the Agada mentions some articles of clothing, toilet etc., sometimes deposited thereon. Origin-

¹רוח נשמה נפש חי חיים (*ruah*, *neshama*, *nepesh*). The Hebraic moralists use these three terms pretty much indiscriminately, all denoting soul, spirit, breath; the Jewish philosophers use *ruah* as the divinest part, the immortal soul or spirit of man; Scripture commonly means by *ruah* our modern spirit and intelligence. Still the three terms are synonymous, not ever clearly defined and discriminated, and hence also their haziness in Egyptian philosophy and religion.

²Hermes Trismegist., *Pocmandres*, Ed. Parthey, Chs. I. and X.

³Professor Maspero, "Etudes de Mythology," I., page 166, thus differs with Professor Sayce: the same discrepancy we find among the Jewish moralists on these three terms.

nally the belief was entertained that the mummy, too, will resurrect; but when Egypt, after Alexander, became identified with Greek culture, that dropped out of sight, and the spiritual immortality alone was accentuated: Man became an Osiris, *i. e.*, was to be spiritually absorbed in the Deity (as the Brahman Nirvana doctrine).

(68): "Body, spirit and soul are common to man and beast, and divine intelligence alone distinguishes him. The intelligence is ever seeking to purify the soul and raise it to itself, but the flesh acts in the contrary sense, and the soul is to answer for the choice it makes. If it had wisely listened to the intelligence, it completes its education, rises with it to God, sees him face to face and is lost in his ineffable glory."—Similar is the view of our Rabbis.

Others speak of two angels, or instincts, in man's heart, that of good and that of evil, as also of an interrogatory hereafter, and final beatitude¹ after a trial time, "*hibut ha-qaber.*"

MORALITY IN RELIGION.

(173): "The doctrine of the resurrection of the body involved that of the judgment of the deeds of the body. Only those were admitted into the region of Osiris (Paradise), who, as he, Osiris, had done good to man. Man therefore had to be morally, as ceremonially, pure . . . in conformity with one of the most moral codes of antiquity . . . This was the most remarkable fact in the Osirian Code . . . Morality was made an integral part of religion."—(174): "The Book of the Dead (one of the Egyptian Sacred Books) contains the confession of faith for the pious one. He confesses before Osiris, the Supreme God and Judge: I have not acted with deceit or done evil to men. I have not oppressed the poor. I have not judged unjustly. I have not known aught of wicked things. I have not committed sin. I have not exacted more work from the laborer than was just. I have not been feeble of purpose. I have not defaulted. I have not been niggardly. I have not done what the gods abhor. I have not caused the slave to be

¹Talmud and Maimonides: The just are enthroned, crown on head, enjoying of the beatitude of the *Shekinah*,

ill-treated by his master. I have made none to hunger. I have made none to weep. I have not committed or caused murder. I have not dealt treacherously with anyone. I have not diminished the offerings to the temples. I have not spoiled the shewbread of the gods. I have not robbed the dead of their loaves and cere-clothes. I have not been unchaste. I have not defiled myself in the sanctuary. I have not stinted in offerings. I have not defrauded on the scales. I have not taken the milk of the child. I have not hunted the cattle in their meadows. I have not kept away the water (from my neighbor) in the time of inundation. I have not defrauded the gods of their victims. I have not driven away the oxen of the temple. I am pure! I am pure! I am pure! . . . Grant, O gods, that the deceased may come unto you, he who has not sinned, not lied, not done evil, not committed any crime, nor borne false witness, who liveth and feedeth in truth. He spread but joy around him. He has given bread to the hungry, water to the thirsty, clothing to the naked, a boat to the shipwrecked, sacrifices to the gods and sepulchral meals to the dead. Deliver him, for his mouth and his hands are pure."¹

There is a story about an aged Spartan who, entering a crowded assembly of Athenians, found no place to sit down. At last a young stranger arose from his seat and invited him to occupy it. The Athenians applauded. The Spartan remarked: "The Athenians know what is fair, but do not do it." We find here that the Egyptians fairly well knew what is right. But did they do what is right? I am afraid they did not! Just the easy-going way of the confession shows that the Egyptian priests, prescribing that ritual and confession, took it not very seriously with their spiritual patients and adherents. They acted not as teachers and moralists, anxious for salvation, but rather on the principle of courtiers of spoiled princes; not as honest tutors to obedient pupils, but as bribed judges of insolent culprits. They just hinted to their penitents what is good and moral, but did not make them do it. Compare with that any of the harangues of a Hebrew prophet. There is the same

¹Professor Maspero, "Dawn of Civilization," page 190.

difference as between the flames of a fiery volcano and the glimmer of a humble candle: (Isaiah, 1.): "Listen, O ye heavens, and hearken, O earth, children I have grown and reared, but they have rebelled against me. The ox knows his owner, the ass his master's crib. Israel knows me not, my people is unreasonable. Woe to thee, sinful people, thou nation hardened with iniquity. Ye neglect, aye, ye loath the Holy One of Israel; ye have turned backwards . . . Your land lies waste, your cities burned down, your harvest, strangers consume it . . . Zion is lonesome, as a cottage of the vineyard, as a besieged city. Except the Lord has left us some remnant, we may soon liken to Sodom and Gomorrah."—(Jeremiah, 17.): "The sin of Judah is written down with an iron style, yea, with a pointed diamond. It is engraven upon their heart, even upon the very corners of their altars. Their children even remember the groves and high hills (of the idols). O ye beautiful fields and mountains your treasures and substance shall be carried away, a booty! . . . Israel, ousted thou shalt be from thy own inheritance, enslaved to thy enemy, in a country thou knowest not."—And this vehemence, this impetuosity of the preacher, as a torrent rushing down from a mountain-top, does not indicate that Judæa was more sinful than Phœnicia or Egypt. No, just the contrary; wherever the moralist is more outspoken, the people is more moral and enlightened. The liberty of speech points to the desire of the auditors to listen and improve. The occasion for improvement brings improvement. A nation rich in great and holy men and teachers must become great and holy. You cannot improve men but by hard blows. Compare even the *Al-Het*, the Jewish confession on the high holidays. There the confessor does not unctuously acknowledge that he had been a pattern of meekness, self-righteousness and benefaction. The Hebrew view is that "there is no man living that does not sin," no man is sinless, God alone is infallible. Humbly, contritely and brokenheartedly every man confesses and acknowledges that he has done, committed and perpetrated sin! wrong! crime! He is ashamed of it, asks pardon and forgiveness for it, on the great judgment-day, barefooted and prostrated at the feet of *Ihvh*.

Such a contrition, such a confession and on such a day, in the long run, will do good, will improve. But never will the lukewarm, sugar-coated confession of the Egyptian penitent, prescribed by the soft-tongued, candy-tuned Egyptian priest, before the over-indulgent and facile Osiris, god of love and pardon.

Let us quote a few more instances from leading Orientalists: (Ibid., 190): "In the same Book of the Dead, we find both opinions represented (viz, religion as myth, ceremony, charms and witchcraft, and religion as a higher theology, morality and good deeds). In its earlier chapters paradise is gained by magical powers and offerings; from the 125th chapter onwards the test of righteousness is a moral one. The dead man has to be acquitted by his conscience."—(191): "The soul is justified or condemned for the deeds it had done in the flesh . . . Moral purity, not ceremonial one, is required . . . Religion and morality, for the first time, are united in one."

(244): Professor Maspero says:¹ "When we put aside the popular superstitions and ascertain but the fundamental doctrines of Egypt, we find them to be very exalted . . . The Egyptians adored a Being that was unique, perfect, endowed with absolute knowledge and intelligence, and incomprehensible to man's powers. He is the One who exists essentially, who lives substantially, sole generator of heaven and earth, himself not generated, immutable, ever perfect, ever present in the past and in the future, without a form, still filling the universe, felt everywhere and perceived nowhere." . . .

Thus far it is almost identical with the Mosaic God-conception, if, indeed, the Professor's estimate, or rather the Egyptian decipherments and reading can be fully relied upon. It is almost Mosaic, except its pantheistic underground and by-tone. At any rate, it was a very exalted God-ideal. But soon began the equivocations. The several nomes, princes, temples and peoples needed their many gods, and the philosophers had to yield. The priests needed room for their polytheism, to square it with the popular superstitions and the many dominant churches, hence these qualifications and equivocations. They lacked the

¹"Etudes de Mythology et Archæology Egyptiennes," II., 446-447.

backbone of the Hebraic prophets. Professor Maspero continues there: "Unique in essence, he is not unique in person. He is father because he exists . . . he is eternally begetting and never exhausted . . . finding in his own bosom the material for his perpetual fatherhood. Alone in the plenitude of his being, he conceives his offspring; from all eternity he produces himself in another self. He is at once divine father, mother and son. These three persons are God in God, and far from dividing the primitive unity, all three combine to constitute his infinite perfection . . . Doubtless the uneducated classes could not understand it."—But they misunderstood it and construed it into myth, their old polytheism and later into Christian Trinity. Never did it create Mosaism, monotheism nor the Decalogue, nor democracy, conscience or freedom. It did not come out plain and straight, did not brush away the mythologic cobwebs; so the poor people, misled, were caught in its entangling, glittering, silken meshes.—(246): "God, as generator, is called Ammon; as the All-Intelligence, he is Imhotep; as accomplishing all things, he is Phthah; as beneficent, he is Osiris . . . Behind the sensuous appearance, nature, the thinker beheld confusedly a Being obscure and sublime, whose full comprehension is denied to him, and this feeling of the divine incomprehensibility rendered his prayer deep, thrilling, sincere and touching in thought and in emotion."

MASPERO, EGYPT AND MOSES.

These fine passages of Professor Maspero, if even assumed as correct and corresponding to facts that he has happily sifted the wheat from the chaff, and given us the essence and pith of Egyptian cosmological wisdom, show that wisdom to be at best Hindu-Pantheism, not monotheism and not identical with Mosaism, nor their model and pattern; just as little as Babylonian myths are. Poetry discarded, that Egyptian theologico-philosophical scheme is the Brahman and Creation of the Vedanta system and of Manu; it is the Qabbalistical Ain-soph with the irradiated Sephiroth and the emanated universe; it is the Gnostic God-father, God-mother, and God-son creating the bodily

world; it is the well-known Osiris, Isis and Horus of old Egypt; it is the identical material of the later ecclesiastical Trinity of the Nicæan Council of 325 P. C. And, above all, it is the antique, Oriental, unmitigated, unalloyed pantheism of India. It is in no wise Mosaic monotheism, the personal God, freely, wisely and benignly creating the universe externally, the world out of Himself, which He alone rules and governs, is its Providence and Lawgiver, for the welfare of its creatures. Professor Maspero's Egyptian sketch is fine, admirable philosophy, but poor, impractical religion. It leaves no room and offers no motive and scope for effort, virtue, noble human aspirations—just as Spinoza's system does. It creates no influential church, no strong society and no free man. That philosophical God-and-world-concept of the Nile is a great advance over the Babylonian mythology, as reviewed above. Still, they fall short, by far, of Mosaism. In the Egyptian *Book of the Dead* we do find many of the good and strong elements of the later Biblical and Rabbinical laws and ethics. But they serve merely as a compromise with an upholstered, clumsy polytheism, mixed up with all its superstitious alloy. The salient, grand idea of duty, "Thou shalt," the Mosaic Categorical Imperative, they knew not. It is no square, compact, practical, organic constitution for a live society, as is the Decalogue, or even as is its paraphrase, the 19th chapter of Leviticus. It is but a sugar-coated, vapid, hazy ideal of self-righteousness and hypocrisy. The Mosaic Lawgiver may have known these Egyptian speculations, propounded as they were close at his gates. But he did not either imitate nor admire them. Long before the Geneva philosopher, he said: "I take my property wherever I find it." The best of the ancient civilizations from wherever it hailed he utilized, sifted, purified from the dross, increased, harmonized and transfigured with his own national, divine inspirations and traditions, and out of all that material were gradually constructed Mosaism, earlier Rabbinism, Judaism, the foundation stones of the future religion of humanity.

1J. J. Rousseau: "Je prends mon bien partout ou je le trouve."

PROFESSOR SAYCE CONCLUDED.

In his quoted book (pages 247-9) Professor Sayce continues: "In the Osirian Creed we have the first recognition by religion that what God requires is uprightness of conduct . . . He is Un-nefer, the Good Being. In the conflict with Evil, he, apparently, was worsted; but though he had died a shameful death, that, his disciples believed, he had endured on their behalf, preparing for them a happier Egypt, without sin, pain and death. The belief in the miraculous birth, by a virgin, of a divine Pharaoh is there repeatedly to be found. Many kings called themselves sons of the Sun-god, by virgin mothers; so did the kings of the fifth and sixth dynasties. The Theban monarchs claimed the same origin, a virgin mother and God Ammon."—(250): "The Egyptians are among the few inventive races of mankind, pioneers of civilization. We owe to them the doctrines of emanation, trinity, God manifested in three persons, thought as the substance of all things; Gnosticism, Alexandrianism, Christian metaphysics and the philosophy of Hegel, have their roots in the Valley of the Nile. Still their eyes were blinded by symbolism, their sight was dulled by overmuch reverence for the past." (Their nobler ideas were not self-evolved, but bequeathed by the past, and confusedly mixed up with their popular superstitions. Such better ideas originated in the Hindu philosophy of the Vedanta.) "They ended with materialism and scepticism, or with prosaic superstitions of a decadent age. Others took up their task and, like the elements of our civilization, those of our religious thought may be traced to the dwellers on the Nile."

Thus we have given here a close survey of some of the best masters of both Egyptology and Assyriology, in order to enable our reader to judge for himself whether it is true or not, that the leading, Mosaic doctrines and institutions are of Babylonian or Egyptian origin and derivation.¹

EGYPT, BABYLONIA AND BIBLE.

What now is our conclusion concerning the relation of Babylonia and Egypt and their influence upon Biblical doctrines and legislation? It is this: Long before Israel and Mosaism, the an-

¹See our remarks in V. Mos., X, "Study on the Golden Calf."

cient civilized world, India, Egypt, Babylonia, Phœnicia, Canaan, well knew what is right and what is wrong. The superior priestly thinkers and philosophers surmised and saw as through a veil that all the forces and agents of nature center in the One mysterious Supreme Power, omnipresent, omniscient and perfect. But to the masses the priests taught but veiled truths, myths, for many reasons and considerations. They promised them absolution and paradise, if they but believed, confessed and payed tithes. Here their task ended. Otherwise were Israel and Mo-saism. The priestly office of teaching, improving and enlightening the people, elsewhere dallied with and played away for a pot of lintels, the Hebrew teachers, lawgivers, prophets, priests, rabbis and schools, took up in full earnest. They ever held up the ideal: "Ye shall be unto me a kingdom of priests and holy people." They did not sweetly and graciously assume, as did the Egyptian priests or the would-be Hebrew ones following Korah,¹ that the masses know and do their duty. No, they spoke as did Isaiah, Elijah, Jeremiah, Micha: Here is the law, here the rule of conduct! Act up to it, or you will have to abide by the dire consequences that surely will follow; God is long-suffering and forbearing, but he forgets not;² crime and error, lies, fraud, malice and meanness, will and must have their results. Brethren, beware! Here is the difference between the teachers and the teachings of Israel and those of Egypt and Babylonia. In Israel the teacher taught and exemplified; in Phœnicia and Babylon he dallied and cajoled, flattered and closed an eye. With Moliere's Tartuffe he said: "Heaven forbids certain pleasures, indeed; still and nevertheless, heaven is accommodating."³ And this is the great moral reason why the temples and priest-hoods of Tyre, the Nile and the Euphrates have crumbled and disappeared, whilst the Biblical ones have taken deep roots, occupied their place and will stand—as long as they act up to the Biblical spirit. This being the case, let us then stop that empty controversy, viz: To whom belongs the priority of teach-

¹IV. M., 16.3; Korah Dathan and Abiram: "All the community is holy."

²וְנִקָּה לֹא יִנְקָה II. M., 20.

³Le ciel defend certains contentements mais on trouve avec lui des accomodements.

ing the God of the Bible, with morality and reason. The Jews have invented neither! God, reason and morality are no inventions. None can take out a patent upon their discovery. It is mere cant and self-glorification to discuss and debate, whether Hindu, Chinese, Assyrian, Persian, Egyptian or Judæan have first taught the highest religion and civilization. There is but one God, one religion and one civilization, and just as the Biblical tradition puts it, they appeared, dimly, at the very dawn of the human horizon, since the very time when civilized man appeared; but they shone sometimes brighter and clearer, and at other times bedimmed and obscured by myth and false priests, by sycophants and rhetoricians. Israel has had, for a long line of centuries, the great and onerous distinction, the somber and lurid honor, of producing prophets, speakers, moralists, teachers, who plainly saw the truth and spoke it plainly. They spoke it boldly, in the face of king and noble, of priest and soldier; in the face of hunger, thumbscrew, dungeon and faggot; they spoke it loudly and publicly, not in a whisper and as a mystery, not to a class, but to the people, to the masses at large. These plainspoken prophets and preachers created Mosaism. Picking out the nuggets and kernels of sterling truths from among the rubbish on the poetic dunghills of myths, error and priestly compromise, from among the ruins of the ancient temples, schools and cloisters, having sifted and polished and adjusted them, then largely enriched them with their own spiritual experiences and sacred inspiration derived from their will of improving and doing good—out of that divine spirit and material they have created the Biblical ethics, morality, theology, religion. This is the work of the prophets of Israel; and man's entire, previous civilization is backing it. To say and reclaim more, to apportion, niggardly, by the inch, how much each race and sect has contributed to that world-religion, that is odious, thankless, useless. The prophetic scheme intends to unite, not to divide, mankind; faith is its golden tie.

CHAPTER X.

Survey of the Mosaic Humanity and Charity Laws.

Let us, in conclusion, have a succinct survey of those Mosaic Laws and institutions discussed above, which particularly aim at fostering the feelings of humanity, sympathy, benefaction and solidarity. The leading principle of the Bible legislation is absolute liberty and equality of the citizens, and all inhabitants are citizens; one person valuing exactly as much as another. Hence, life for life, death for death; compensation in money for murder, as elsewhere, is not accepted (II M., 21.12). One person's limb, eye, tooth or hand is just as much worth as another person's (II M., 21.24). The Talmud argued that, practically, compensation is to be made, in money, for a hurt in limb; still on the principle of equality.¹ Upon the same principle is enacted: The Hebrew slave shall go free after six years of servitude (II M., 21.20).—The Hebrew female slave must be married by the master or by his son, or go out free (II M., 21.7). The male and female servant must be treated kindly, as a brother and a sister are, during those six years, and no hard slave-work imposed upon them (III M., 25.39 and 42; Maimonid. Yad. on Slavery).—The Gentile slave killed outright by his master shall be avenged by the death of the slayer. If hurt in limb, even causing the loss of a tooth, he shall leave, free (II M., 21.27).—The thief breaking into a house during the night may be smitten and, if killed, there is no guilt of murder. But if in daytime, that is murder (except in self-defense, the Talmud argues) (Ex., 22.1).—Stealing of goods entails double payment of the property, if found yet intact with the thief. If sold or destroyed, the payment is five-fold for cattle, four-fold for a lamb (on account of their importance to the farmer). If he has nothing to pay with, the thief is sold to make up that amount in labor, but not to over six years' servitude; his body, his limbs, his life, his freedom and his family

¹See introduction of Rambam to Sedar Zeraim, where that interpretation is claimed as immemorial.

cannot be touched; only property answers for property, not life or limb, or personal freedom for property: the view of democracy (II M., 22.1, and 21.37).—Seduction of a maiden entails marriage, or if her father objects to that, the payment of a virgin's dowry (Ibid., 22.15).—The stranger (alien, non-Jew) shall not be over-reached, wronged or vexed (22.19).—Widows and orphans shall not be oppressed, but actively befriended, for God ever listens to their cry and avenges their wrongs (22.21). Lend your money and goods to a neighbor, even a non-Jew, without usury, and all increase, profit or interest is usury (22.24).—The *Salma*, shawl or cloak taken in pledge, must be returned every evening (22.25), that being needed for the night.—The Talmud extends this exemption law to other necessary articles.—In II M., 23, the following is to our point: Not to take up, disseminate and scatter false rumors and gossip, or conspire for false testimony (v. 1).—Not to go with the majority and the masses for biased judgment (v. 2) (The Talmud interprets that as requiring a majority of two for death penalty). Not to favor the poor at law (v. 3).—To return the enemy's ox etc. to his owner (4).—To help release the enemy's beast succumbing under its burden (5).—Not to slight the right of the poor (6).—Not to aggrieve the alien (non-Jew), but to sympathize with him (9).—Every seventh year not to till and work the ground; and to leave its spontaneous growth to the poor and the beast (11).—Every seventh week-day to stop all labor, that the beast, the slave and the stranger may rest and recuperate (12).

We come now to similar verses in V M., 21: A female (non-Jewish) captive may be married, but treated in every respect as a wife; allowing her fair time to settle and prepare for her altered conditions. She cannot be treated as a harlot, or a slave, or be given away to another, once the captor has lived with her.¹ (10)—A man of two wives cannot arbitrarily change the right of primogeniture to the younger son, he cannot substitute the son of the loved wife for that of the disliked one. He must

¹In Homer, the victorious heroes acted so, even Agamemnon, Achilles, Neoptolemus. So acted Romans, Carthaginians etc.

abide by the natural fact. (15)—A wayward, rebellious son can be punished even with stoning, but not by the parents, and only after a judicial condemnation. (18)—The Talmud, arguing from the letter, rendered that hoary remnant law nigh impossible, the usual method of disestablishing an obsolete paragraph. A condemned and executed person must be buried on the very evening after his death. (23)—Anything found must be taken up and returned to its owner. (V M., 22.3)—A bird's-nest found, the young may be taken away, but the mother must be allowed to escape. (6)—It is not allowed to till the ground with an ox and an ass together (10), for they do not pull alike.—Spreading disrepute upon an innocent, recently wedded maiden, entails a severe whipping, with a heavy fine and loss of the right ever to divorce her (19).—V M., 23, reads: "Do not hate an Edomite, he is thy brother; or an Egyptian, for as a stranger thou hast lived in his land. Their third generations may intermarry with the Hebrew community. (8)—Deliver not a fugitive slave to his master when he seeks an asylum with thee; let him abide in thy gates wherever he pleases, vex him not. (17)—Take no interest on money, or profit on any goods from thy brother; of the foreigner (merchant, Assyrian, Egyptian or Phœnician) thou mayest take interest; of thy (native, poor) brother, not, that God may bless thee (20).

V M., 24.1, reads: A man displeased with his wife for (her strongly) indecent conduct (*ervath dabar*), may dismiss her, by a judicial act of divorcement; if she marries another one and becomes a widow, or is a second time divorced, the first husband cannot remarry her (as at that time customary in Arabia), this being an abomination to God (and undignified to the character of womanhood.)—(Ibid., 24.5) A recently married man shall not be levied to the army during all the first year of his marriage, in order that he may rejoice with his newly wedded companion.—It was in a crisis of the French Revolution when heroic General Joubert celebrated his nuptials, and at once departed to the army; the next day he fell in battle. The people justly felt indignant at that lack of humane

consideration.—Same exemption is in building a new house.—Thou shalt not take in pledge the mill-stones, for that is pawning life (6).—The creditor shall not come into the house of the debtor to get his pledge, but he shall stay outside, and the debtor shall bring it out to him; and if he is poor, it must be returned to him for the night, that he may sleep with his *Salma* (cloak) (all this proves the hoary primitiveness of the law, humble and simple, in small circumstances) and God will account it to thee as righteousness (10).—Withhold not the pay of thy poor brother, the workman, or of thy stranger; pay him on the same day, he needs it, that he appeal not to God, and that will be accounted to thee as a sin (15).—The parent shall not die for the children, nor the children for the parents; every one dies for his own guilt (10).—Throughout antiquity the entire family suffered for the guilt of each of its members. Despotism held the family, yea, the community, responsible for the deeds and omissions of its single members, thus enacting the principle of solidarity for bad, not for good. This we find in the Laws of Hammurabi and of the Roman XII Tables. Mosaism which ethically, in the body politic, recognized that social principle of solidarity between the fellow-citizens, rejected it in legal, individual, private affairs.—Not to bend the right of the stranger and the orphan, and not to take in pledge the garment of a widow (18).—Part of the crops belonged, by right, not as an alms, to the stranger, the poor, the widow and orphan; this were notable parts of the flocks and the crops, under different names, as firstlings, gleanings, forgotten sheaves, the corners of the field, the remnants of the fruit etc. (19-22).

(V M., 25.) The evil-doer condemned to a whipping shall not receive over forty stripes (thirty-nine Talmudically, and often much reduced at the advice of a physician), "that thy brother shall not be lowered in thine eyes" (3)—sympathy, even with the guilty one!—Muzzle not thy ox when he threshes thy grain (4)—sympathy with the brute! Two brothers living together and one of them, dying, leaves a wife without children, the surviving brother shall marry her; first that she shall not be homeless, and next that her first child to be born, shall keep

alive the name of the dead brother (5-11).—Considering the ancient social and agrarian conditions, what sweet sympathy does not this show with the dead brother, and the widowed sister!

(V M., 26) The firstlings of the harvest are to be brought to the Temple, at stated periods of the Hebraic cycle of seven years (Shemitta). Tithes were to be given to the Levites, the poor, the stranger, the widow and orphan.—The three yearly festivals were gatherings of the nation for humane conviviality and fellowship, the nurturing of the sense of communion, sympathy, solidarity and nationality; the wealthy “together with the poor, the stranger, widow, orphan etc.” Finally every fiftieth year the Jubilee was celebrated, as the epoch of universal rehabilitation and restoration to full freedom of the enslaved, restoration of houses, farms and lands to their original owners and cancellation of debts; an economical revolution and rehabilitation, restoring all the members of the nation to their pristine liberty, equality and democracy. Here we have gathered some of the leading passages of the II. and of the V. Books of Moses on our theme, passing by a great many others, scattered in the Pentateuch. Come, ye philanthropists, philosophers, political economists, Socialists, dreamers of the millenium, of the kingdom of heaven on earth. Come and examine this socio-ethical scheme of your great predecessor of 3,000 years ago. Are there not some practical, solid suggestions concerning our own Social Problems? “An inalienable family-acre,” a “Year of Release,” a “Jubilee of restoration and universal rehabilitation,” a Sabbath for all; a family without divorce or frivolity; work and no charity, religion without priest-craft, no monopoly and no ostracism! Could that not be tried with many chances of success? Does not the Pentateuch contain good material for the future reconstruction, just in this vast but half-occupied America, of a happier, wiser, nobler humanity, without race, creed and class discriminations, without plutocracy and pauperism, without bitter greed, envy and competition, without armies, politicians and wars? a society of free, educated, working, thinking and enjoying men and women! “Everyone dwelling under

his vine and his fig tree, with none to be afraid of!" All knights of labor, brain and heart!

CHARACTER OF THE BIBLICAL AND TALMUDICAL BENEVOLENCE.

The Biblical Commonwealth hardly knows of charity in our modern sense, namely, as almsgiving, daily-routine gifts to paupers, spendings for chronic beggars wandering from door to door, people never self-supporting, ever a charge and a burden to the community, the result of our deficient economics, our social discriminations and cruel competition; at other times the result of sickness, lack of training, habitual laziness, or native stupidity. Mostly such poverty is forced upon those socially or legally ostracised and incapacitated to enter the arena and fight the battle of existence. Of that vast army of rarely wilful and mostly innocent professional beggars, the Mosaic community knew little. There the citizens were to be all equal and free, before the law, and in the chances for success and the pursuit of happiness. The great social rule was to be: "Thou shalt love thy neighbor as thyself." This means rational solidarity;¹ that includes mutual interest, reciprocal benefactions, live and let live. The Mosaic State bestowed on each individual citizen an acre of ground in perpetuity, a farm to be cultivated, as a livelihood for himself, his family and his posterity. He and they enjoyed its annual produce, but they could not alienate it. If they sold its crops in times of distress or war, it returned by law to the family within six or at most, fifty years.² And since war, booty, industries and commerce were originally not much contemplated in the Mosaic State's household, the avenues of sudden enrichment and impoverishment, of plutocracy and pauperism—*our social problem*—were seemingly stopped. There habitually reigned a proximate equality of fortunes, and no chronic classes of beggars and paupers could for long arise and exist in a state thus constituted, ethically, politically and economically.³

¹כל ישראל ערבים זה בזה ²The year of Release and Jubilee.

³See my "Biblical Legislation," page 8.

But as human vicissitudes are ever great, as the unfortunate and the vicious will ever abound, the law often repeats and sadly acknowledges (II M., 15.11): "There will never be needy men lacking in thy land." Therefore it recommends and enjoins again and again sympathy, mutual interest and benefactions: Give the poor of thy crops and thy fruits which God bestowed on thee, on the tacit condition to share them with thy less fortunate countrymen. Let us well emphasize this: The farm each citizen was granted by the very constitution of the state, the supreme owner of the soil, was granted expressly on the condition that part of its produce shall forever belong to the priestly and levitical class; to the poor, the widow, the orphan and the stranger. This was a leading feature of the Hebraic Society. The legislator and the prophets often enough refer to it. To transgress it was not simply lack of charity, but of justice, a breach of the constitution. The tenure of land was conditioned by the paying of *tithes*; just as in the Middle Ages, the tenure of land was conditioned by fealty and service to the suzerain, the supreme owner of the conquered land. If the tenant failed in his duty, the Suzerain could confiscate the property. Just so the prophets, the divinely instituted stewards of the wronged poor, threatened with confiscation of the land by the conquering enemy, as the divine executor. Besides this, the law ordains, considering that poverty is unavoidable, "lend thy brother money and goods, without any profit or usury." All profiting by a neighbor's distress is usury. "In harvesting, leave to the poor the field-corner and the gleaning . . . Fear God and take no profit of the needy." Thus benevolence and charity are termed in later Jewish social developments: *Zedaka*, *Gemiloth Hassodim*. *Zedaka* may be best rendered by charity, and *Gemiloth Hassodim* by benevolence; but they are really synonyms; in fact either is an expression for a compound kind deed of pity, justice, sympathy, benefaction and charity; it is equity permeated with love, egoism mitigated with altruism, the feeling of human solidarity, the duty to "live and let others live." And this *Zedaka* is not poetry, not a mere ideal, a flower from Utopia land. No, it is a commandment, a positive social

duty.¹ Every citizen is bound to *Zedaka*, as to the other social rules and communal laws. So, indeed, in the earlier Biblical and the later Talmudical communal arrangements, the *Gabai Zedaka* were picked out, most honorable men, specially appointed as guardians and chiefs of the community, as a standing, permanent and respected board of officers to collect, even forcibly, contributions for the support of the necessitous, to which every one was bound to offer his mite, except those very poor themselves and deprived of sufficient means of self-support. Nay, according to Rabbinical law, even the poor were not exempted from such duty. They received and they gave charity. This benevolence committee, termed *Gabai-Zedaka*, played a big part in the Jewish community of old. The verse, "The sages will shine as the stars in the firmament," was applied to them (*Baba Bathra*, 8 *b*; *Daniel*, 12) particularly.

The poor were of different kinds and degrees, many of them needing bread, raiment, shelter and fuel; but others were aristocratic ones, accustomed to, but now having no means for, buying luxuries. Each class was distinguished by different designations,² and all could confidently rely on those public and private benefactions, delivered at the public kitchen or the money-collections.³ The Talmud mentions that in the *Moriah Temple* there was set apart a chamber for such secret charities⁴ intended for respectable poor, who never saw their givers, to spare them any humiliation. Even the heathen poor were fairly considered in the distributions,⁵ as already the *Pentateuch* recommended the stranger.⁶

In the preceding pages we have seen the great solicitude and anxiety the Mosaic Lawgiver displayed to secure to the dependent, the slave and the poor, to the widow, the orphan, the Levite, the stranger and the crippled one, their human dignity, their

¹The reader will remember that there every social or civic duty was a religious duty; the Biblical society was a state, a church, a people and a congregation, with God as King, law as the norm, the priest as magistrate, and the citizen as pew holder. Only in modern times priest-craft has taught us that we must decentralize the powers and separate State from Church; in the ancient states they were one, just as in nature. The Anglo-Schottish dissenters aspired for awhile to such a theocratic society, but the prism of modern experiences broke that unit into many separate institutions to check each other and maintain its equilibrium.

²לשכת השאים. ³Kupa-Timhul. ⁴דל, עני, אביון, מר

⁵Gittin 61 *a*, and *Ioreh Deah*. ⁶III. M., 19.9.

fellowship, their self-respect, the recognition of their rights, wages, gifts and shares in the common national wealth. Such they had in the harvests, in the flocks, and, according to the enactments of the Talmud, generally in the income of all the industries and trades of all the later commercial classes. It is considered a specially heinous deed to wrong those needy, social strata, and a divine curse is launched against such delinquents.¹

To be liberal and give to the dependent, the orphan, the widow, the Levite or priest and the stranger is enjoined again and again in Bible and Pentateuch. To give him, to lend him without interest, cancel his debts on the year of Release, invite him to the festive table, to the family-gatherings, make him feel at home, assist him to be self-supporting, screen him from temporary want and the injustice of the cunning and the strong, is enjoined innumerable times. "Be open-handed" (V M., 16.8).—"Be not close-fisted" (V M., 15.7).—Of the good matron is said: "Her hand she reaches out to the needy" (Prov., 31. 20).—The poor scholar is especially recommended: "Who donates to him, is as if offering sacrifices" (Kethuboth, 105; Berachoth, 10).—"Instead of offering wine on the altar, you may give it rather to the poor scholar" (Yoma, 71 a).—"God will offer his protecting wing to the pious under the ægis of the sages. All the prophets foretold happiness to those who confer benefits upon the sages" (Berachoth, 10).

And the motive to such charity must not be ostentation, self-advertisement, popularity, but sympathy, sincere pity with misery and sickness, genuine desire to alleviate and make fellow-beings happy, conscious solidarity of the human family: "Thou shalt love thy neighbor as thyself," because there is God, our universal father, and we are his children, one universal brotherhood. As we sympathize, love and care for a sick child even more than for a healthy one, even so must we care and yearn more for the sick, forsaken fellow-man and the penurious one than for the hale, happy and rich one; he is still the child of God, even when wretched because vicious; he is still a brother; even the death for crime is not brute revenge, but social self-pro-

¹V. M., 27.19.

tection, and the desire of appeasing the blood of the innocently slain. Such are the aspirations, motives and feelings of the Mosaic charity, tempered with prudence and justice. In keeping with this are the sayings of the Sages and Prophets, the Psalms and the Hagiographs, of which we quote here but a few:

Micha says (6.9): "Mayest thou understand, O man, what is good and what God requires of thee, namely, the practice of justice, of charity and of modesty."—(Is., 58): "Indeed, the fasting I choose is to loosen the intricacies of wickedness and the yoke of enslavement, to give bread to the hungry, and the desolate poor to shelter in thy house; to clothe the naked and be not estranged of thy (poor) kindred."—(Prov., 22.2): "The rich and the poor, both, God has made."—(Ps., 22.24): "God despiseth not the poor."—(Ps., 12.16): "God rises to rescue the oppressed."—(Prov., 17.5): "Who scoffs at the needy blasphemes his Maker. Who gives him, lends to the Lord."—(Ps., 19.10): God protects the poor. A Roman inquired of R. Aqiba: "If your God loves the poor, why does he not support them?" "That we men may have the fit opportunity for doing good to our fellows," the other replied. "But do you not thus, rather, rebel against the decree of God?" "No; you treat the oppressed as slaves; our law shows them as children of God" (Baba Bathra, 10).—(II M., 22.24): "It is written: When thou loanest money to my people . . . Who are my people? The poor!" (Midr. Rabb.; II M., 31).—"The heaven is my throne and the earth my footstool . . . but I look to the poor and the lowly" (Is., 66.2).

With the dispersion of the Jews, the work of beneficence and charity gained an immense impetus and expansion, and became a leading communal activity. It joined the unfortunate members of that nationality into a veritable bond of brotherhood and solidarity. The parole and password of that world-wide fraternity was *Zedaka*, acts of benevolence towards the most unfortunate of the Ghetto. It was the cornerstone of the Synagogue, the practical prayer and applied service of God. The Board of Charity became the leader of the Ghetto community (Parnassim). To be pious, religious, God-fearing and God-pleasing was identified as performing acts of benevolence, *to do Zedaka*.

This was the highest form of divine service; to be God-like, to realize the perfect virtue, the acme and quintessence of holiness. So, Isaiah, 5.16: "The holy God is sanctified by benefactions."—"Who turns away from charity commits idolatry, quasi" (Kethuboth, 61 *a*).—"Who gives alms participates in the presence of the Shechina" (Baba Bathra, 11 *a*).—"Ye shall follow the eternal your God (V M., 13.5). In what way? As he is merciful, merciful and long-suffering, even so be you also. As God clothes the naked, strengthens the sick, consoles the mourning, do you the same (Sota, 13 *a*).—R. Johanan b. Sak-kai taught: "Charity is greater than sacrifices, for those atoned only for Israel, charity also for the Gentiles" (Baba Bathra, 10 *a*).—Rabbi Assi said: "All-important is benevolence, for it outweighs all the commandments" (Idem., 13).—"The best seeds are benefactions" (Aboda Zara, 5).—"The charitable man fills the world with divine grace" (Suceah, 49 *a*).—"The value of fasting consists (essentially) in its accompanying charity-work" (Berachoth, 6 *a*).—"Where no care is taken of the poor, no scholar shall dwell" (Sanhedrin, 17 *a*).—R. Johanan b. Sak-kai, seeing his disciples weeping over the destruction of the Moriah Temple and its atoning altar, consoled them: "Friends, be not disconsolate, still we have a place of atonement fully equal to that destroyed; charity is its name; as written, I desire charity, not sacrifices; knowledge of God, not burnt offerings" (Hosea, 6.7; Aboth de R. Nathan, chapter 4).

Following the Mosaic enactments on the equal distribution of the Palestinian soil, granting to every citizen an acre of land for his farm in perpetuity, and requiring of him a goodly share for the priests, the Levites, the poor and the stranger, the Talmud logically extended that bond of solidarity between the rich and the poor to all acquisitions, all sorts of wealth, immovable and movable, to profits and industries, property real and personal, in and out of Judæa and in the world at large, in the entire diaspora. "Every Jew owes the tenth part, at least, of his annual income to the poor" (Ioreh Deah, 249). They make a fine pun on it, much to the point: "Asser teasser," do give the tenth, they read: "Asher teasher"—giving the tenth makes one

rich,¹ a witty, spirited pun, only in the Hebrew tongue. The great modern ethico-economical doctrine of human solidarity, mutual sympathy, warm interest in and benefactions to each other, the Talmudists dimly saw, as through an azure veil, far in advance of their times. They expressed it, not as Karl Marx and Lasalle, economically, but poetically, philanthropically: "Solidarity is not alone in the law of Israel and Moses, but even in the law of nature; there all is peace, love, harmony; day and night, the seasons, the planets, the spheres, all act by one divine spring; all assisting and supplementing each other, and thus form one beautiful whole, a grand harmony, a world-concert, wheels within wheels, forces and counterforces; all contribute and make up one endless, well-tuned; homogeneous universe. Even to such accord aspires the Thora by its golden rule of "Thou shalt love thy neighbor as thyself," by its laws of solidarity, sympathy and love of next." (Midrash Rabboth to II M., 31, and Tanhuma to II M., 22.23).

TALMUDICAL VIEW CONTINUED.

(Baba Bathra, 9 and 10) R. Isaac says: "Who gives a farthing to the poor is blessed with six benedictions; and who gives him kindly, sympathetic words of consolation is rewarded with eleven blessings"—a deep psychological utterance. People will much more easily spend a dollar upon the poor than a few kindly sentences of sincere sympathy. Isaiah, 58.6-11, is his proof, containing such six and eleven benedictions. It is a well-known chapter, coming out boldly and plainly, distinguishing between hypocrisy, formal piety and real goodness. There true justice and altruism are finely and masterfully delineated.

Isaiah, 56.1, gives it in a nutshell: "Thus speaks the Lord: Practice justice and charity, that brings salvation."—People give easily enough to the poor, but are slow of advocating the truth and doing plain justice. Justice is greater and precedes charity. People will remorselessly ruin their neighbor today, and tomorrow pauperize him with their hypocritical almsgiving.

¹The verse ordaining the tithes is V. M., 14.12. Point on left and right hand: עֵשֶׂר חֶמֶשׁ-עֶשֶׂר חֶמֶשׁ-עֶשֶׂר—A fine Hebrew Pun changing the sense.

A straw for such benevolence! It is a mere screen and mask, a cent of alms for a dollar of stealing!

R. Isaac continues: "What means (Prov., 21): 'Whoever pursues benevolence and mercy will find life, *Zedaka* and honor'? It means whosoever is eager to be charitable, God will grant him the means to be so—and more, he will ever find worthy subjects for his benevolent disposition."—R. Josua ben Levi said: "Who makes it his life's habit to practice benevolence, will have children endowed with wisdom, wealth and learning." The above verse is his text.

Turnus Ruphus, a Roman emperor, asked R. Aqiba: "It is written: 'My slaves are ye, Israel.' Now, when the king is angry with his slave, puts him into prison, and leaves him to hunger and starvation, when thereupon a man takes pity upon him, feeds him and preserves his life—is that not sheer rebellion? To this cruel parable R. Aqiba replied, promptly and ingenuously, and much more to the point: 'Listen to *my* simile: A king was angry with his son and ordered him to be incarcerated and starved; then a friend ventured to feed him and save his life—will not the king soon be grateful for that? Now mind it, Cæsar: Israel are God's children—not slaves! as written V M., 14, 'Ye are children of the Lord.'"—That is tactfully and finely pleaded for a people under the heel of Rome. At the same time it shows the sympathetic thrill of the patriarchal teachers and people: "Israel, children of pity, modesty and benevolence" (Agada).

APPRECIATION OF POVERTY—JEWISH SCHOLARS.

Sympathetic and brimful with the consciousness of human misery and solidarity, we read in the Talmud the following utterances on poverty: "There is nothing so painful as poverty; it outweighs all other earthly misfortunes put together" (Midrash Rab. ; III M., 31).—All depends upon the disposition and tuning of our heart, and our heart depends upon the condition of our purse (Jerusalemi Teruma, 8.9).—"The color of the face alters as soon as we are in need of another man" (Berachoth, 6 a).—"Who is waiting for another man's table, his life

is darkened; his life is not worth living" (Beza, 32).—"Such are especially those who economically fell from their former station" (Nedarim, 40 *a*).—"The means of self-help are principally: Save, labor and do any kind of work and say not 'I am a gentleman'" (Pesachim, 112 *a*).—"Make thy Sabbath a working day and depend not upon other men. It is written (Ps., 128): 'When thou eatest by thine handiwork, happy art thou and hail to thee.'" From this the rabbis learn that "honest labor is the highest mode of piety."¹ "Let every father take care that his son learn a trade or profession" (Kiddushin, 81 *a*).—Many of the greatest rabbinical authorities were mechanics by trade, many more were farmers, toiling with their own hands. Hillel the elder was a day-laborer before he became Nassi and Rector of the Academy. Of his spare earnings, he saved to pay his academic tuition fees. One day he had earned nothing and hid on the roof of the academy, listening to the lectures within, having no money to pay his entrance fee, and was snowed in there and half frozen (Yoma, 35, *cum grano salis!*). Similar great poverty is narrated of R. Aquiba (Aboth de R. Nathan, 6 and 10).—Each of them, nevertheless, became the leader of the nation, merit alone securing the highest office in those times. Raban Gamaliel, a very proud *Nassi*, visited his colleague, R. Josua, and found his home wretchedly poor. "Why so?" he asked. "Because thou art the leader of this generation!" pointedly replied R. Josua.²—R. Johanan and R. Simon, famous teachers, often lacked bread (Horajoth, 10).—A Rector of an academy admonished his hearers not to attend school during the agricultural season, in order to secure the crop thereof and not to starve (Berachoth, 17).

Such lives lived, after the Prophets and Rabbis, the Saadias, Gebirols, Maimonides, Spinozas, Moses Mendelssohns and many, many others whose names remained in obscurity, but whose activities were nevertheless potent factors in human advance. Reader! this sad, yet illustrious picture of the Jewish, ill-fated scholar and sage, with his poverty, his ethical heroism,

¹ גדול הנהנה מיניו מיראת שמים Borachoth, 8 *a*.

² Often enough to be repeated in our generation of ecclesiastical magnates.

his struggles, his mentality, his abstemiousness and his self-sacrifice, living up to the rule (in *Aboth*) of: "Study, think, live on bread and water, sleep on the bare ground, and subsist on preparing, working and thinking"¹—such thrilling delineations are not inventions nor exaggerations, nor even rare ideals. No, Reader! I who pen these lines, knew men who realized that fully, who could sit for this photograph. I knew well especially one man who for many, many years lived on bread and raw fruit, drank but water, slept on a hard couch, and his only recreation, his only joy, his only aim in existence was to study, think, and do good, work for his fellow-men, for human advance. And his practical reward, for a whole lifetime, was misrepresentation, belittling, envy and slander by men of Gamaliel's type, not worthy to tie his shoestrings. Still he persevered, kept on in his toil and self-sacrifice, finding his real unique reward, yea, his happiness, in his own conscience. He might have been a shining example of perfect human happiness, if not for the acute pangs of seeing the sufferings of his family, and of—"Weltschmerz!" Besides this case of intimate familiarity, I knew several others of whom I surmised that they were copies of the identical and same Agadic pattern: Bodily martyrdom, monastic abstemiousness, austere purity and mental superiority. Such ethical models, no doubt, are an honor to humanity; but it is no honor to humanity to tolerate such martyrdom created by its demagogues.

At any rate, poverty united to wisdom and virtue is no absolute obstacle either to great achievements or even to true happiness. Work, as a livelihood for the body, and study as the proper sphere and most noble habit for the mind of superior men, such was the ideal of the Rabbis. The Deity himself was by them imagined as the great World-Worker, the Demiurg, and the Supreme Thinker; that in him, both became one, the Divine thought was creation, his thinking was working and working, beatitude. Rabba said to Raphram: "Tell us something good," to which the latter answered (*Berachoth*, 8 a): It is written (*Ps.*,

87): "God loveth the gates of Zion above all the tents of Jacob,"—that means he loves the halls consecrated to the higher studies (*Halacha*), above all the houses of prayer and of learning.¹ Hence said R. Hiah in the name of Ula—ever giving the name of the original Teacher, no plagiarists in those honest times—"Since the day that the Moriah Temple was destroyed God cares, out of all the universe, principally for the four-yard-wide room of the higher studies" (*Halacha*). So Abaja said: "Formerly I used to study at home and pray in the synagogue, but later on, I learned that since the downfall of the Temple, God prefers, as his own, the four yards of the higher studies. So I pray now where I study" . . . So R. Ami and R. Asi, dwelling in Tiberias, where there were thirteen synagogues, prayed nowhere but between the two pillars of the hall or portico where they studied.

This ingenious saying that since the destruction of the Temple, God is ever present in the study-room, served Maimonides as the theme of a noble chapter. Interpreting at large this, at first, strange sounding passage, he most philosophically and boldly concludes that the great object of the world, the most important social factor, is—the sage, the philosophical student, the thinker; in him is Deity incarnated; society's great object and scope is—to produce great thinkers; thinking and working in the highest sense, is one; thinking and living on a crust of bread. Such is the Rabbinic ideal of a superior man "in whom God rejoices," closes Maimonides this theme in his *Yad Ha-hasaqah*. It is the identical pattern of the sage of Plato, Zeno, Cicero and the Hindu Vedanta philosophers.² The Hindu *Rishi*, the Greek *Sophos*, the Roman *Sapiens*, and the Rabbinic *Hacham* represent one and the same ideal concept of a great and good man.

CHARITY AND MAIMONIDES CONTINUED.

(Maimonides. *Yad Zeraim*; Treatise on Gifts to Poor, VII.)
 "It is a positive commandment to give alms and donations to Jewish poor, according to our capacity . . . Who sees a poor man, looks away and gives him nothing, has transgressed the

¹ציון—מציינים, a fine pun, untranslatable into English.

²See my "Philosophy, Qabbala and Vedanta" on that.

law, as written: Thou shalt not harden thy heart and not close thy hand against thy needy brother . . . You are bidden to give him according to his needs . . . Even if he was once accustomed to luxuries and is now impoverished, you shall assist him according to his habits. Give him even as much as a fifth of your income; a tenth is fair, less is avaricious. One shall feed and support the Gentile poor with the Jewish ones, for the sake of good-will to all."—(Ibid., IX.): Every city inhabited by Jews shall appoint a board of charities, well-known and trustworthy men, to make the round weekly and receive from everyone what may be fairly expected of him. That money is to be distributed among the poor sufficient for the weekly support. This is technically termed *Qupa*, Money-Charity-box. Another appointed committee on charity is to collect of the people daily eatables and clothing, and divide that every evening among the poor. This is termed *Timhui*, meal or kitchen charity. All precaution is to be taken in these transactions that nothing goes to waste or be misapplied . . . A poor man who offers a charity is welcome to do so, but he cannot be taxed for that.

"(Ibid., X.): We are bound to observe the commandment of charity (*Zedaka*) more than any other affirmative commandment, for that is the very touch-stone and criterion of the true seed of Abraham . . . The genuine faith is affirmed by nothing so much as by benevolence . . . A man never becomes poorer by doing *Zedaka*. Whoever is sympathetic gains other people's sympathy. Who is unsympathetic, his genealogical family-record is suspicious . . . All Israelites, inclusive of their sincere converts, are brothers, as written: You are God's children . . . To whom else shall the Jewish poor look up to for assistance, surely not to the heathens, their persecutors? No, of their Jewish brethren alone, they must expect aid! Whoever closes his eyes to charity is *Belial*, godless, wicked, cruel, a sinner¹ . . . God is ever near-by listening to the cry of the needy . . . He who offers a gift with an ungracious mien, even be it a thousand gold pieces, has forfeited all his merit. Benevolence must

חוטא, אכזרי רשע, בליעלי

be accompanied by friendliness, sincere sympathy, warm encouragement! If the poor asks alms, and you have nothing to give, offer him honest, kindly words at any rate. Do not address him harshly in a lordly manner . . . Woe to him who grieves the needy . . . God is his protector, near by . . .

“There are eight degrees of benevolence and Zedaka. The highest and noblest is to encourage and help up one in distress, lending him money and goods, or going into partnership with him, or procuring him work, so as to make him stand on his own feet, become self-supporting and be in no need of anyone. This is the noblest charity. The next noble is, to bestow a boon upon the poor without personally seeing and knowing the recipient, or letting him know who the donor is. Such was the silent chamber in the Moriah Temple, where liberal persons gave alms secretly, and where especially respectable poor received private gifts. Of course this method is to be used only then, when fair dealings are perfectly secured. The next, lower charity degree is that the donor know the recipient, but that the recipient know not the donor. So the great sages acted who secretly went to the home of the bashful needy, furtively threw in their donations and hastily retired. The next degree is to hand the charity to the poor without letting him see or know the person of the giver, so as to spare him any humiliation. The next is to give before being requested. The next is to give at once when asked. Next to give less than is fair, but with a friendly face. The last and lowest charity is to give with a constrained and forlorn mien. Leading teachers ever gave alms before every prayer. Who supports his grown children in order to give them the leisure and means for a better education and a better start in the world—this is noble benevolence. Who kindly invites the poor to his table is charitable.

Ever shall a man rather live closely and sparingly and not intrude upon others. So said our sages: Make thy Sabbath a week-day and be in no need of anyone. Even a sage and an honorable man, but poor, let him courageously exercise some trade, even an indelicate one, but not apply for charity. “Better to skin a dead carcass in the street and not say: ‘I am a gen-

tleman, a great scholar, support me'!" Among our great sages there were wood-cutters, drawers of water, smiths, coal-workers etc., but they never asked or received anything of any man. Whoever needs not, yet accepts alms, will not die before he truly needs such. To him applies: "Accursed is the man who relies on man" . . . He who really needs, as when old or sick, but is proud and refuses charity, he is a murderer and suicide; his starvation brings him but sin. But he who constrains himself, lives closely and abstemiously and is a burden to no one, he will soon have enough to support others also. Of him it is said: "Blessed is the man who relieth on God" . . . Each of these sentences is Talmudical doctrine and is proven by most suitable, appropriate, scriptural verses. The whole system with its underlying motives is admirable, unique in the history of social government, and worthy of being adopted by all civilized nations, as a pattern of wisdom, goodness and altruism.

CRITICISM AND CONCLUSION.

Let me not be misunderstood. Sympathy with the suffering, desire to assist them, charity and benevolence for the needy, is not specifically a Jewish virtue; it is humane, deeply settled in our hearts, a trait of our human nature. I shall admit even more. It is a feature, an innate instinct, perhaps, of all animated nature. The brute has that instinctive love for its offspring, and, by extension, also, for its kind. Maybe the lion and tiger lacerate and devour to appease their hunger or their anger, when provoked, and that means that the innate pity is silenced and overcome by the stronger instinct of self-preservation. Thus pity and sympathy is a corollary of all animal being and life. That pity rises to active benevolence and aid in man of all races and peoples. Among all civilized nations we find great display of acts of goodness and mercy from more or less elevated motives. But the characteristic of the Biblical sympathy and charity is that there it is legalized and constituted a civil duty connected with, and lying at, the very base of property. A man's house, field or even movables and fruits are his, no Utopian communism! but on specified conditions; he is

bound to give part of that to the poor, as a duty, plainly implied in: "Thou shalt love thy neighbor as thyself," assumed to be promulgated simultaneously with the very beginning of property, at the start of the nation after the reoccupation of the ancestral Canaan by Joshua and the Israelites. Here is sympathy and beneficence not merely an alms-giving, the lowest grade of charity, but they lie at the root of property, and are its condition *sine quae non*. All civilized nations gave alms in money, corn, banquets, out of humane fellow-feeling or politics or ostentation. Such were the distributions enacted by the Roman, Persian and Egyptian grandees. Judæa alone spent as a duty, a duty assisting, not degrading, poverty.

This grand system of benevolence did not perish with the loss of the free Jewish Commonwealth. It outlived it long after, and was justly declared by its leaders as the potent substitute for the altar destroyed by Titus. It became a permanent feature of Jewry in the dispersion. Giving alms and organizing lasting benevolence, *Gemiloth Hassodim*, lending money to struggling traders, redeeming captives, sheltering the homeless, caring for the sick, rearing and educating the orphans, endowing and marrying poor girls, burying the dead and supporting the poor, was a leading feature of Jewish communities during the Middle Ages. In the Ghetto it is practiced now, as ever, modestly, and by well-to-do modern Israel, often, on a grand scale, as exhibited in many Jewish communities of Europe and America.

And this charity system did not stop with the bounds of the Jewish camp. It transgressed its boundaries to all the corners of the world. Buddhism caught up the spark and, one-sided and exaggerating, declared pity, charity and benevolence not only a part, a salient part, but the very whole of religion. When, as above mentioned, a Rabbi emphatically and boldly opined: "Great is charity, for it outweighs all the other commandments," that sounds almost as a ring and echo from Buddha Gautama's camp-meetings. But no less rationally and wisely than he, did the teachers of Christianity and of Islam diligently preach, exalt and inculcate the duty of benevolent and

charitable deeds, of mercy, love and forgiveness. These teachers, of Nazareth and Tarsus, of Mecca and Medinah, etc. caught up their spark of enthusiasm, without any contradiction, from the Rabbis and the Prophets. They loudly proclaimed themselves as their disciples and their followers. Thrilling to the utmost are the addresses of Jesus, Paul, Mohammed, their disciples, on mercy, charity, reconciliation, patience, humility, self-sacrifice, sympathy and altruism; sometimes going to exaggeration, overlooking work, saving, providing and prudence. They rehearsed and copied from prophetic harangues and agadic homilies. With them charity was not all, as with Buddha, but a big part of religion. All these efforts combined undoubtedly helped poor mankind a little. Still that degenerated into begging and common almsgiving. It degrades the poor, puffs up the rich and chiefly, nurtures pauperism and moral enslavement of the alms-takers.

Its remedy, the panacea, is the return to the original, pure, Mosaic suggestion: Every man is to be born to an entail, a family acre, and to receive an education, viz, the arms of self-defense in the battle for existence; whilst artificial privileges and, on the other hand, social ostracism be muzzled. Do justice to everyone, and no one will need charity.

With the Bible the Synagogue indeed entailed upon the church its grand, elaborate system of charity and benefactions. But in both, unfortunately, in the Synagogue and Church, the real Mosaic sociology, solidarity, and the real Mosaic benevolence were overlooked and omitted. The reason is, because they were an integral part of the Bible democracy and its free society. Indeed, could the church recommend the original, Mosaic free man and woman, the free state, free citizen, equal distribution of wealth, an inalienable family acre etc.? Could it do so in the empire of the Cæsars and patricians, or of the Teutonic, conquering hordes, all resting upon mere force, the victorious sword, upon overreaching and caste-privilege? Could it do so when the chieftain claimed land and goods, all, and man was nothing; where even the barons had just what the suzerain allowed them? There the Mosaic democracy was out of the question. The poor, even

when members and clansmen of the dominant race, were but menials, ever at the will and mercy of the liege-lord. So the Mosaic benevolence, rooting in freedom, was impossible, out of the question. The poor, the sick, the orphan, were to be assisted as an atoning alms, as a sacrifice of expiation for the lordly sins, not in order to uplift the poor, render them independent and obviate both plutocracy and pauperism. Later even, when the dominant church claimed, as the Vicar of Christ and of Cæsar, universal dominion, earth and ocean, the world and its riches, then she built the grandest charitable institutions, advanced Christian authority and made a soft cushion for the lazy, the vicious and begging ones. But this was not the object of Biblical benevolence, which aimed at uplifting, rendering independent, creating manly citizens, a universal democracy, without lord, slave or pauper.

The mediæval synagogue had not the means, social, pecuniary and political, in the Mosaic sense, to uplift and substantially assist the needy, so as to be above want. But the Church, though wealthy, had her political reasons not to act on Biblical principles. The Church was hampered by feudalism. She was allied to king and baron. So charity became almsgiving on a grand scale, opening of hospitals, poor-houses, orphanages, asylums etc. It disposed of huge wealth, such as the Synagogue never could boast of. It used it grandly and nobly, but also not seldom, for selfish, domineering purposes, not always for the people's good. The monasteries and bishoprics became veritable asylums, sheltering armies of monks, nuns, beggars and paupers. Degeneracy went on as usually. Often they became also places of refuge for criminals and the scum of society. Crime and laziness found there toleration, protection and food. Even the heavenly gates were thrown open to them. Pope and emperor, bishop and prince, vied with each other to benefit the beggars, as a means of expiating their own sins. The Emperor and the Pope had their days of washing the feet of such beggar-saints. It was a whitewash for their conscience. To be a beggar was a title to paradise. Even to our time, on a certain day the prince washes the feet of a few beggars, as a remnant of human equal-

ity; still it does not improve the poor man who is the recipient of the honor. It is a ceremony, no more. Thus, as a clear result of false charity, pauperism, laziness and vice were nurtured in those grand mediæval institutions, devouring half the wealth of Europe. Thus the splendid Christian charity was often wrecked by misunderstanding and misapplication. Thus the original, far-reaching, Biblical benevolence was not carried out by either Synagogue or Church. The Ghetto, the imprisoned, poor Synagogue and the dominant and wealthy Church, both, neglected the inner scope and purpose of the Mosaic *Zedaka*, and turned it to almsgiving and an eleemosynary hospital, doing some good, but not half the good it should and could do. *Zedaka* is ever constructed with *mishpat*, meaning kindly righteousness, justice united with pity and mercy,¹ right and love made one. In the great majority of cases, the poor have a moral right to be assisted by society, for it is the social privileges of the classes and the social ostracism of the masses that have reduced the latter to want. The Ghetto-Synagogue and the palace-Church overlooked that, and made charity an institution for the paupers, the vicious, and at most for the victims of our social wrongs and distempers. The thinkers and philanthropists of this past nineteenth century discovered that. It is a faint Biblical recollection, as democracy, freedom, equality, monogamy; so is *true* charity. We must not nurture or idealize or beatify poverty, but extirpate it, root and stem, by stopping its baneful sources: Social wrong, legal injustice, privilege, ignorance. We must do justice to all, open competition to all, equalize chances for all. We must muzzle unfair competition and plutocracy. And this is the Mosaic democracy, this is its scope, object and natural drift. A free acre to each and privilege to none, this covers all the Biblical charity. Do justice, and none will need alms! is the refrain.

No doubt, here is a legislation of justice and charity, benevolence and solidarity, unequalled in all antiquity and, in many respects, not reached in the present time, a pattern for the future.

¹ מִשְׁפָּט וְצֶדֶקָה; very often in this construction: Is., 33.5-56; Jer., 8.23; 22.3; Ezek., 18.5.

It is odious to make comparisons; it is unfair to seek for discriminating parallels; it is idle and mean belittling to talk of copying, plagiarism and imitation by the Mosaic Lawgiver of the Laws of Hammurabi, or other codes of Babylonia, Rome or Egypt. These latter codes may and do contain many excellent elements and tenets of right and justice, of benevolence and even of religion. As such they may have justly found their echo in the Mosaic Code, too. We do not pretend that before Sinai, civilized mankind had no notion of right and truth, even of holiness and Deity. But how and of what quality and kind? But chiefly nowhere do we find such laws united into one compact, homogeneous code, as an organic law solemnly and publicly delivered, and for thousands of years universally recognized as such, as the religious, social and moral constitution of the State, as the supreme rule of conduct for the individual and the nation; unanimously and loudly proclaimed as the law of the one Supreme God, dictating it to man, to Israel, yea, in reserve, for mankind! As a whole, a social and ethical system, a fundamental law for practice, enacted by the Omnipotent, as such the Mosaic Law is unique; it is wholly unsectarian, universal and entirely original, without a parallel in human history, and its charity and benevolence law is a worthy part thereof. Just as the Pentateuch is very sparing in fasting, praying and mere observances, in comparison with other creeds, but is very positive and urgent in forbidding wrong acts, beliefs, superstition and hypocrisy, even so it is concerning social duties, especially human solidarity. It does not command so much to give gifts and alms, as to do right, *and chiefly to do no wrong*, to let every one have his due, have his chance. Indeed, to subscribe to churches, hospitals, monuments, charities and soup-kitchens, is not by far the true benevolence. That is often compatible with ostentation and self-advertisement, a cloak for accaparating and over-reaching, for open oppression, or clandestine exploiting, cornering the market and defrauding on a grand scale. But, not to abuse power, restrain the passions, sympathize with and allow his chance to the poor, weak, helpless and homeless; not to take advantage of the stranger, the simple

and the debtor, not to abuse the favorable opportunity, but to be just misericordius and modest towards all—that is the true religion, the rare charity, the essentially Mosaic sympathy and benevolence, and that has found its best and clearest expression in the Bible, in Moses and the Prophets.

LOVE IN MOSAISM AND ELSEWHERE.

We have introduced this treatise with the remark that centuries ago the claim used to be that the Mosaic Law is rigid, justice punishing wrong, the *Lex Talionis*, and that Christianity stands for the higher doctrine of love; whilst now religious innovators, agnostics and sceptics assume another attitude towards the Bible. They claim that no positive religion, that neither the Old nor the New Testament have the "Perfect Ethics," that a "new social code must be introduced, with a religion, new in ideas and in forms."

We cannot here consider this new "Perfect Ethics" contemplated by the innovators, since they are still a blank, vague shadows of doctrines not promulgated from the new Sinai. But we have shown and emphasized in these pages that the Mosaic Ethics, its charity, sympathy, solidarity, are fully sufficient for human society as it is. We have proved that the exaggerated Love-principle of the New Testament is of sickly birth, that it has never matured into practice. It may have produced a few great humane exemplars, but that the masses have not profited by it, because it is too high-strained and out of human reach. We have seen that exaggerated love-principle to be of Brahmanic, Buddhistic or Osiric origin; that philosophy assuming that life is a failure, all existence a misfortune, the world a constant deterioration from, and a blunder of, the Deity; that nature is evil; hence are activity, virtue, thinking, poetry, art, patriotism, glory, charity, not worth caring for. What, then, shall a pious Hindu or Egyptian aspire at? At self-denial and resignation, at beatitude and absorption in the Deity, or non-existence?¹ How can man obtain and reach that? Buddhism as-

¹Absorption in the Deity is the last word and hope of Brahminism and Osiricism; they are diverse in myth, but identical in essence; the pious becomes one with Brahma or Osiris; Nirwana!

sumes emphatically: By suicide, killing and obliterating all consciousness, feeling and thinking, extinguishing all remembrance of parent, wife and child, of body and soul, hope or fear, love and hate; the only true happiness is—not to be! Whilst Brahmanism accepts the premises, still winds up otherwise: Drop body, passions and senses, contemplate but the deity, sink into a trance, an ecstasy and thus be beatified; thy mind resumed in the God-head will no more transmigrate and pilgrimage on earth; that is termed: Nirwana! This is the object, hope and aspiration of all piety, all human effort. Now this Nirwana doctrine was renovated by Greek Neo-Platonism, Jewish Qabala, yea, it is the later Osiris doctrine, too.

And this is also the "Love-principle" claimed to be above the Biblical justice and benevolence: "Care not for work, family, property, world, that is all indifferent. Aspire at the kingdom of heaven and its beatitdue!"—Otherwise is the Mosaic scheme, that teaches: "God created all." "God saw that all was good."—"God blessed his work and bade man to labor, provide, dominate and multiply in the land;" . . . "Work in the sweat of thy brow and enjoy as the lord of the earth."—That is to the point, realistic; and even so realistic are its ethics: "Celebrate a universal rest-day; honor thy parents, respect human life, honor, property, matrimony; take care of thy word and of thy feelings; love thy fellow-man.—Spare thy enemy, the stranger, even the brute. Take the world as it is, make the best of it by its proper use. No constant self-sacrifice, no impossible virtues; self-preservation is thy first care; race-preservation is thy next task; do thy duty, insist upon thy right, live and let live; feel with thy neighbor, condone with thy enemy; have sympathy with the weak, the poor, the slave, the brute; realize the solidarity of all men, yea, of all rational beings, and thus live up to: "Holy shalt thou be, for I, God, am holy."—This is the Love, the law, the justice, the right, the duty, the solidarity, sympathy, humanity, universality, charity and benevolence taught by Mosaism. They are branches and rays of one light. As the ancient temple Menorah (chandelier), they are all made of one gold-bar, one piece, making up the realistic love-and-justice-doc-

trine of the Thora, taught to the world and to men as they practically are. This Biblical love is permeated with justice and reason, and this Biblical justice is pervaded with love, the different aspects of one and the same thing; egoism and altruism rationally combined.

Let us be more explicit. Love as a virtue, a leading virtue, not a passion and weakness, must be identified with justice and squared with reason. Whilst love without justice and without reason, is but a covered vice. Love, pardoning the wrong-doer, is flagrantly unjust to the wrong-sufferer, it is to take from the honest his due and waste it unduly upon the dishonest; it is encouraging the guilty and discouraging the innocent. Only when love is combined with reason and balanced by justice, only then is it a virtue, and may be the virtue. The Pentateuch ascribes this love, in the highest degree, to the Deity (II M., 34-6): "Ihvh, God, loving and merciful, long-suffering, beneficent and truthful . . . bearing with sin and iniquity, still not allowing them to go on unpunished . . . remembering the good to thousands of generations . . . and entailing the fathers' wrongs upon their offspring, to the third and fourth generation." Here we see God is Love, but not sentimentality, love identified with justice and reason. All three are one in him, as the sun-ray is the unification of all the colors. Now, heathendom broke this perfect sun-ray by its imperfect human prism; it saw the Deity in the universe only as reflected there by its divine attributes, and it imagined as many deities as divine attributes and forces that exist in the world; it splintered the one white ray into many-shaded colors; it represented each divine attribute, separately, by its own fictitious genius. The Babylonian and Canaanitish supreme god, Baal, was justice; Ea was love and mercy, and so on, each force and virtue was represented by its own imagined genius. Thus in polytheism the supreme god was justice without mercy and sympathy. George Smith, in his rendition of the cuneiform story of the Deluge in Babylonia, introduces Baal as the embodiment of justice, the *Lex Talionis*, requiring the total destruction of the sinful human race; whilst

god Ea intercedes in behalf of the Babylonian Noah, the¹ leader of the Ark, and favors the conservation of the race. So is god Mardukh, the later, other name of the Babylonian Baal, the god of rigid justice.² Now Christianity took the very opposite side of that view. Whilst to the heathen, God was force and severe justice, Christianity conceived the Messianic part of God as mere Love, Love in the kingdom of heaven, where oppressed innocence and insolent, triumphant wrong will be impossible. Hence the "coat and cloak," the "right and left cheek," instances. The kingdom of heaven is dominated by the God of Love as Osiris is in the realms of the future life in Egyptian religion. Strict justice, *lex talionis* and punishment are there not necessary. Quite otherwise is Mosaism: It did not claim to legislate for the kingdom of heaven, but for this terrestrial globe, far from being a heaven, but passably bearable if wisely taken, and for real man, adapted to the real world. God is the harmonious unit of justice and love and reason; he is the Supreme Reason permeated with absolute justice and love, all three and infinitely more attributes are identified in him, as all colors are in the one sunlight. Still for the human eye, God is justice and love, prominently and saliently, and these two phases are Biblically termed: Elohim and Ihvh. Such they are designated by our poetic, Agadic philosophers, the one God has many attributes, among which are chiefly justice and love, *Midath ha-din* and *Midath ha-rachmim*; in him are reason, justice and love, etc., perfectly united, fused and identified.

Thus, while the heathen god is cold-steel-justice, Talion, pitiless, inexorable; every mistake, sin and rebellion, to have its logical consequence, forever and ever; whilst the Paulinian God of Love, not of justice, is father, not judge, all mercy, forgiveness and self-sacrifice, ascending the cross to expiate for human sin; he is God of Love, because by right, all men should go to perdition, just as the Babylonian Baal condemns all mankind to destruction—in place thereof Mosaism teaches "God is long-

¹Parnapishtim or Xissutros.

²See H. Winkler, "Laws of Hammurabi," page 1; Mardukh Gott des Rechtes.

suffering, merciful and loving, still united to justice and reason, so that sin must be expiated, even to the third and fourth generation." Even so we do really, practically, verify it in daily life and in history; sin and wrong have their necessary consequences, their baneful results, even to the children and children's children. They must be stopped and destroyed by man's effort, or they will destroy man and his race. At any rate, crime and error have their consequences and cannot be blown away. No, they must be and are eliminated, the vices or the vicious must go. And just this is the sense of II M., 34.6-7, quoted above: "Ihvh, God of mercy, long-suffering, . . . still wrong must be atoned, punished it must be."

MOSAIC ETHICS; HERBERT SPENCER AND AGNOSTICS.

Thus the Mosaic doctrine reunites these elsewhere scattered divine attributes, justice and love; in God is justice tempered with love; love is pervaded by justice and both are upheld by reason; they interfuse each other, as air and light and electricity; they are really one, though apparently split and separated by our human analysis, as the prism breaks the sun-ray into different colors. Hence is the Mosaic Law no mere law of revenge, but justice permeated with true love, love looking both ways, not one-sided. Even so is the Mosaic humanity and charity pervaded with justice, truth, love and reason.

Far less tenable than the doctrines of Babylonia and Nazareth is the agnostic aspiration at creating a "Perfect Ethics," without religion and the God-belief. Herbert Spencer¹ made an attempt at loosening and severing morality and ethics from religion, still not without the God-idea. That behind this visible universe there is an invisible Power sustaining and inspiring it, is to him self-evident. But he tried to outline a system of morality not connected with any special positive creed, without ceremonialism, dogmas and supernaturalism—and even there he wisely advised caution, "since it is easier to demolish and destroy than to build up." But as to our latter-day agnostic, religion-makers, who claimed for "the right of secession from the

¹In his *Data of Ethics*.

present religions and the duty of creating one of their own, with "Perfect Ethics,"¹ since those of Christ and the Prophets are not satisfactory—here I am at a loss whereto agnostics are steering . . . Neither their new "religion" nor their new "Perfect Ethics" have been as yet revealed to the world. I am afraid they have not been revealed even to themselves; they are yet a blank, a Utopia. It is easy to pull down a palace, but very hard to erect one. When they will try their forces at that, they will find out, what Herbert Spencer has experimented and honestly acknowledged, that it is unwise to demolish a house before we are sure that we have constructed a better one; and that as long as we have no better new one, let us thankfully occupy the old one, and not be left *a la belle étoile*. Hence the "Perfect Ethics" and the agnostic "religion," I am afraid, are but castles in the air. Consider! Agnosticism desires higher ethics, self-sacrifice, perfection, holiness in man, and still it teaches: Man is a monkey, the universe soulless, a machine without a guide; man without spirit or reason steering towards—nothing! Upon what will scepticism build then its Perfect Ethics? Upon what erect their new religion, without postulating a Supreme Providence, God as source of love, truth, justice and reason? What motive for virtue and wisdom? Whence obtain the energy to strive after such? Our agnostics put up a high ideal of man, virtue, world, worth, duty, education, holiness—even confession! all working for Perfect Ethics, altruism, love and charity, even severer than the Biblical ones, and still without God, without a motive power? Ethical Culture claims to find that motive in man's conscience, but how can one appeal to the conscience of a monkey, a machine, a creature without spirit or reason or soul? Herbert Spencer proposes as motive, true and wise self-interest—but the agnostics apparently scout that! What then else? From innate instincts and postulated reason they rise and aspire to lofty ideals, to pure love and Perfect Ethics, to sanctification, self-sacrifice and perfection; and nevertheless they decline to postulate God as the motive and

¹"The Right of Secession from Religion," New York, 1903, "Ethical Culture Society."

source of perfection and holiness! Why is such a postulatam unreasonable? Gebirol, Maimonides, Kant did not think so, and Herbert Spencer neither! If there is no such a Source of Holiness and Perfection, whence could man obtain it? From what motive and with what object? If the creator is not holy, how shall the creature be? Whence shall it come and what for? And since Ethical Culture aspires at such ideals, why not grasp at that anchor of salvation, postulate God and accept the Supreme Ideal as the reality and base to those lofty, inborn aspirations? Without God and soul our endeavors are futile; without the God-belief, materialism alone remains; and "Perfect Ethics," even higher education etc. float in the air. Hence agnostic, "Perfect Ethics," I am afraid, are a *Fata Morgana*, a will-o'-the-wisp, a castle in the air, and can only lead into Nihilism: "Let us eat and drink, for tomorrow we die!" You remember that vainglorious Greek who fired the Temple of Ephesus in order to become famous. That may be the glory agnosticism will reap. Let us speak plainly and without metaphor. Without God there is no religion, without God and religion there is no Ethics, and without God, Ethics and Religion there is no civilization. Ethics without God and piety is hypocrisy, and a civilized society, a democracy, as the United States, can, least of all others, do without God and Ethics—Religion. Therefore, let us abide by the Biblical Ethics, made for man and world as they are: "Holy shall ye be, for holy am I, your God." And this will make for the only true, practical Ethics: "Thou shalt love thy neighbor as thyself" (Leviticus, 19.18).

MOSAISM AND THE UNITED STATES.

In conclusion, let us consider our vast theme in its latest, sociological aspects and political bearings. In this volume, as in the preceding ones, treating of the Spirit of the grand Biblical Legislation, we have often called attention to the important, historical fact that the leading features of the United States, the spirit inherited from its Pilgrim Fathers and founders, its patriotism, its constitution, its legislation, all are in some sense the latest developments from the principles underlying the ra-

tional, political, religious and social doctrines of Mosaism. In final corroboration of that view, let us adduce now the many interesting data, culled from different sources and grouped together recently, saliently demonstrating and proving by plain, historical facts, what we have hitherto advanced on theoretical grounds, by argument. We have shown that the United States has been built on Biblical grounds and is imbibed with Biblical spirit. The scores of American Christian sects, from the zealous, ritualistic Episcopalians to the extremely liberal Baptists, the radical Universalists and Unitarians, all these denominations, slowly breaking away from the Trinitarian Catholic Church and gradually approaching nearer and nearer, to the simple Biblical monotheism, all these form one protracted scale of as many stations or grades between the Nicæan, Orthodox, Trinitarian Church of 325 P. Ch. and the Mosaic Bible. Their tendency and pole of attraction is pure Mosaism. The more they dissent from, and distance the first, the nearer they approach the latter, until the Unitarian Christians vary but in name and forms from the Jews. Closely looked at, they are in dogmatics and in ethics Jews, Jews in essence without the name; without the name and the local, national historical ceremonialism of the Jews; and as soon as prejudice and *amour-propre* will vanish, they will coalesce. According to express Talmudical lines and views, "all Gentiles rejecting idolatry, all who accept and acknowledge the One, Spiritual, Supreme God-belief with the moral law, all such stand on a par with those recognizing the Thora' fully, and they participate in the beatitudes of the hereafter." That is Rabbinical doctrine, that was taught by the Hillelites, the Agadists and Nazareth: "The first doctrine of Israel is, 'The Eternal is thy God, he is one.' The next is: 'Thou shalt love thy neighbor as thyself.'"—Let us prove this now:

Gray, in his "Remarks on the Early Laws of the Massachusetts Bay Colony,"² hints that the Puritans got their first code

¹Maimonides. *Yad Mada*. חסידיו אומות עולם יש להם חלק לעולם הבא, הכופר ב'עז' כאילו מודה בכך התורה כולה

²See *Menorah*, New York, an article on Americanism.

of laws, mostly, from the Books of Moses."—John Adams remarks: "Their greatest concern was to establish a government consistent with the Scriptures" (Colonial Records of Massachusetts Bay). In 1636 Lieutenant-Governor Thomas Dudley and his Committee were invited "to make a draft of laws conforming to the (Bible) Word of God," which should serve as principles of the Commonwealth, and present it to the Legislature; in the meantime the magistrates were advised to determine uncertain law cases according to that "law of God" (the Old Testament).—Such a body of fundamentals actually was presented to it, as a copy of "Moses and his Judicials" (Winthrop's Journal, page 22).—Further, in 1642, Charles Chauncey, later President of Harvard College—a great authority in his time—replied to legal questions propounded to him: "That ye judicials of Moyses that are appendances to ye moral law, and grounded on ye law of nature and on ye Decalogue, are immutable and perpetual, acknowledged by all orthodox divines."—The Massachusetts "Body of Liberties," established by the Legislature in 1641, "adopted the law of Moses in different forms."—Senator Hoar says: "They went so far as to give a double portion to the eldest son, in conformity with Mosaism" (see American Antiquarian Society, April, 1895).—Henry Ward Beecher remarks: "They had the simple, innate and intense sense of the right of a man to himself, before God and his fellow-men, and his God was the Old Testament God . . . Out of that grew New England . . . Like the Jews, they scarcely ever separated patriotism from religion. There is only one nation on this Continent, and that is the New England one; that is the spirit pervading all the constitutions of the several States of this one United States nation, and that are their fundamental principles; such are the facts."—Such are the governments founded in America by the Puritans as well as by the Dutch. And such are to a great extent even those established in the South of the United States by the English Cavaliers. The scores of sects of England, tearing away from Romanism, needed a new support, and that, naturally, was the Old Testament. Freedom, religion and hard work are the foundations of all the American colonies—all three elements

hailing from the Old Testament Society. That spirit is perfectly understood, well grasped and vastly elaborated in the great legal work by Grotius, the leading Dutch jurist.

The Scotch Presbyterians and the English Roundheads apparently and saliently inclined towards the Old Testament. Not only did they reject the "Holy Mother," the saints, the cult of images, reliques, mass, pomp and vestments, but they began to discriminate in the very New Testament the monotheistic phases from the later trinitarian ones. Without rejecting the Messianic idea, they but half-heartedly and supinely submitted to trinity. They gave over the Septuagint and the Vulgate and zealously studied the Hebrew Bible, adopted its phraseology, figures of speech and metaphors, gave verse-long Hebraic names to their children and favorite places, imitated the simplicity and purity of the Jewish cult, the Jewish Sabbath and Jewish home life. They applied most hateful names to the Church of Rome and most endearing ones to Jerusalem and the Biblical people. They abhorred whatever savored of the former and cherished everything reminding of the latter. The more they turned away from papacy, the nearer they approached to Mosaism. This was logically the trend of the religious upheaval in England, and especially in Scotland. If it were not for the remnant of the ancient heathen-Gentile prejudices and the sore appearance of the mediæval Jew, English Protestantism would have arrived at—the Old Testament polity. English radical Unitarianism and Quakerism are permeated by the same Biblical spirit. The first by its spirit proper, the latter rather by its idealism and sympathetic feeling, though in emphasizing and insisting upon minor ideas and forms it exaggerates and spoils its good intent.

From theology and cult let us now pass to the political leanings of Old and New England. The Virginia Bill of Rights, drafted by George Mason, upon which subsequently the Declaration of Independence was framed, had its prototype, almost verbatim, in an old Dutch document of the sixteenth century, so many writers opine. Let us now look to the eighteenth and nineteenth centuries, that will finally show the present United

States as the latest evolution from the Biblical Society and State, the Washington Capitol as standing on Moriah grounds. Howard Payson Arnold says: "As in the estimation of our forefathers, the makers of New England, so in that of the makers of the United States, Moses towered high, like a mighty column, resting on dread foundations, led by Divine Omnipotence, never to be shaken" . . . "He was regarded as a more valuable symbol than anyone else—for encouragement to good and terror for evil doers." Bishop Warburton, in his work (about 1750), says: "The Divine Legislation of Moses swept over all Christendom with the force of a cyclone."—Lord Shaftesbury regarded Moses as the only heart which had the character of being after the Almighty's."—Bunyan's portrayal of Moses, the Herculean Lawgiver, puts him on a higher plane than Christ. Carlyle, in his inaugural address at Edinburgh, 1866, says: "They wanted to make the Union altogether conformable to the Hebrew Bible, which they understood to be the 'will of God.'"—The three men most instrumental in shaping the destiny of the American Confederation undoubtedly were Adams, Jefferson and Franklin, and their real, personal trend of mind was Mosaic, not Trinitarian. The Old Testament spirit moved in them strongly, buoyantly, openly and without any attempt at wearing the mask of Orthodoxy. The seal of the United States proposed by Adams (1776, August 4) was of Bible-Masonic origin, the Radiating Eye of Providence.—Franklin proposed as such, Moses with his wand overwhelming Pharaoh, with the motto: "Rebellion to tyrants is obedience to God."—Jefferson proposed: "Israel in the wilderness with a dark cloud by day and a fire pillar by night."—In 1787, proposing the Federal Constitution, Franklin remarked: "A Constitution was framed for the Jews by the Deity himself, and delivered to Moses for their guidance." Adams wrote to his son, John Quincy Adams: "Moses was the one whom the Lord knew face to face, and to whom he delivered the Laws for the Hebrews."—When Congress hesitated to occupy the extreme American West, the new territory of Oregon etc., Adams called on the clerk of the House to read from the Bible, Genesis I., 26.28, "conferring upon man the right to occupy the

land and till it."—The theological creed and the humanitarian view of Lincoln and Garfield—not to mention other leading American statesmen of our own period—their strong leanings towards the spirit and tenets of the Old Testament, is well known. All that conclusively proves the strong hold of the Bible upon the American mind. It is ingrained and nurtured from its very birth with the principles and doctrines, the tastes and views of the Pentateuch. And that goes evidently to show that the Non-Sectarian basis of the United States nation and its Constitution stand upon Sinaic grounds, upon the teachings of the Decalogue, upon the universalism of the Mosaic justice, benevolence and human solidarity.

This gives the cue to the most appalling social upheaval of recent history. At these atrocious inter-racial crimes going on in Russia, the United States people was the foremost to show its indignation, extend its pecuniary aid and its international sympathy to the victims. It is the United States people, which, nobly and courageously, took up the gauntlet flung into the blushing face of this twentieth century, and flung it back to where it belongs. President Roosevelt, called upon by a Jewish Committee to interfere in behalf of the Russian victims, said: "I need not dwell upon the widespread indignation with which the American people heard of the dreadful outrages upon the Jews of Kishineff . . . I have never known of a more immediate and deeper expression of sympathy . . . It is natural that such a feeling should be the most intense in the United States, for here, from the very beginning of its national career, most has been done to acknowledge the debt due to the Jewish race and to do justice to the American citizens of that race and faith. American history well remembers their great devotion and patriotism, their sacrifices for our country, their bravery and capacity in our army, navy and civil service during our own crises . . . Thus I feel all the sympathy, the sorrow and the horror over the outrage done to the Jewish people . . . I am confident that much good has already been done by such manifestations throughout this country . . . And I will consider most carefully the suggestions you have submitted to me on behalf of that

cause." True, the President did not do anything beyond that speech, still that speech from the mouth of a man speaking in the name of eighty millions of free citizens, is an important historical deed; had all the other rulers of nations spoken in the same strain, Russia would have come to its good senses. In the same sense spoke Secretary Hay. Such words on such occasions make history, are deeds, salient mile-posts on the road of human advance, pointing to the fact that the United States is built on Biblical principles and destined to give a country and a home to the homeless Biblical people.¹

Less salient and open, still potent and real, is the influence of Mosaism on the European Western world.

There the fogs of prejudice, race and domination, veil and obscure, in part, that Biblical tendency, as very often a trifling feud in a family for long blasts it and becomes very venomous and dangerous to its growth. Nevertheless, the beneficent bearing of the Bible upon the entire Western civilization is potent and powerful. The horizon is ever vaster and brighter than the clouds beneath. In spite of the predominant sectarianism and bigotry, no doubt can be entertained that the entire West of the globe is impregnated with the Mosaic ethics, theology, views and ideals, infinitely more so, than with the poetry and the mythology of Persia, Greece and Rome. Such Biblical ethics, beliefs, patterns and habits of thought and life are the real strength and backbone of the Christian world. Its many Greek, Alexandrian and Asian trappings and popular notions are fading away, gradually disappearing. And what is permanent and stable there, its real pith, marrow and backbone, is the prophetic Society, State, family, Church, its viewpoint, doctrine and practice. It is its purified God-belief, the norm of the Ten Words, the ethics of Leviticus 19th, the weekly rest, the yearly holidays, the principles of human freedom, equality, dignity, right, duty and work—the Biblical democracy. And these are bound, sooner or later, to conquer the mediæval and the ancient

¹Hon. Simon Wolf published an excellent book with the biography of thousands of Jews who fought in the United States' armies for freedom and national independence.

regimes and create the United States of the World, with monotheism and a fraternizing humanity. That world with that pacified society cannot long defer gladly to recognize Israel's championship of the Western civilization and his honorable citizenship in their midst.

MOSIS' HAMMER AND NAIL.

Let us conclude this treatise with the words of a well-known poet and jurist, satirist and philosopher, a man with a deep insight into human nature, history, law and socio-political institutions; a writer of Jewish extraction, wayward and erratic from abundance of genius, coupled with anguish and the distress of circumstances, not yet sufficiently appreciated by most biographers of Hebraic men of genius; a Jewish man at the bottom of his soul and the height of his mind; with a poet's heart overflowing with humanity, the bitter sting and sardonic laughter of the disappointed satirist and worldling; humorous in form but profoundly earnest, yea, tragic in reality. Such a many-sided genius, contemplating the stupendous work of Mosaism, with the eyes of a Mirabeau, Adams, Jefferson and Franklin, deemed it to be the grandest, sublimest, ancient effort for human emancipation, redemption and elevation. He closed his solid, though seemingly humorous, appreciation of this masterly legislation with the following admiring and scathing words, well applicable to our own times and self-constituted Higher Critics, who, from misunderstanding, prejudice and flippancy, misconstrue and underrate that code. He says: "I had not been very fond of Moses, probably, because of the Hellenic spirit predominant in me, and I could never pardon the legislator of the Jews his hatred of the plastic arts. I did not realize that he was, nevertheless, a great artist himself, and of the best type. Only this artistic sense was, with him, as with his Egyptian countrymen, ever directed towards the colossal and the imperishable. But he formed his art-works, not as the Egyptians, in stone and granite; no, he built men-pyramids, he chiseled men-obelisks. He took a poor shepherd-tribe and moulded it into a people predestined, as those pyramids, to defy the centuries; a

great, eternal and holy people, a people of God, that was to serve as a pattern to all the nations; yea, as the prototype of all mankind. He created Israel! He may well boast to have erected a monument to outlive all other casts formed in ore or marble . . . Liberty was ever the supreme thought of the great emancipator, and this thought breathes and flames in all his institutions . . . bearing upon pauperism . . . Slavery he hated above all. Still, he could not entirely eradicate either slavery or pauperism; they were too deeply rooted in those hoary times. So he had to be satisfied with limiting and mitigating them by legal provisions. But if a slave was so mean as to insist upon his servitude and to stay therein, in spite of the law that enfranchised him, then the lawgiver ordained that such an incorrigible and servile scamp be bored in and nailed by his ear to the doorpost of his master's mansion; after which shameful exhibition he was to remain and forever to stay a slave. O *Mosha Rabenu*, Moses our Teacher, thou scourge of tyrants, friend of the people and noble opponent of slavery, let me have thy hammer and nails, that I may nail our various pedants, hyper-critics, agnostics and obstinate slaves, attired in their gaudy lackey-livery. Let me bore their long ears and nail them solidly down to the Brandenburg-gates of sensationalism, infidelity and anti-Semitism. They are so stubborn and obtuse! They have well listened in the Sunday-school and heard the voice on Sinai: 'I am thy God; thou shalt not steal, not adulterate, not supplant, not covet!' Nevertheless, they insist upon such perpetrations even on holy ground. Let them be bored by their long ears;"¹ that they may improve, better listen and learn that it is more to the honor of religion, the testimony of long and venerable ages and the positive advantage of our Western civilization, that monotheism, the Decalogue, the free State, yea the entire Biblical Legislation come from Moses and Judæa, than from Gudea and Hammurabi, Babylon or Heliopolis.

¹II. M., 21.6, and V. M., 4.17; Rashi ad locum: That ear that heard at Sinai: Thou shalt not steal! and yet did steal—shall be bored. Helne on that.

ERRATA.

Page 5, bottom, read "first of trilogy" instead of "firm of trilogy."

Page 103, top, read just "mean" instead of "means,"

Page 128, bottom, read "Bible and" instead of "Bible and."

Page 142, top, read "members" instead of "numbers."

Page 143, bottom, read "Fourrier" instead of "Fournier."

Page 226, omit the 17th line as superfluous.

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